

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: SUN HOMES**

**(Case No. 12011)**

A hearing was held after due notice on August 21, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the separation requirements.

Findings of Fact

The Board found that the Applicant is seeking a variance of 1.0 feet from the twenty (20) feet separation requirement from the dwelling on Lot 68 and a variance of 5.1 feet from the twenty (20) feet separation requirement from the dwelling on Lot 64 for a proposed dwelling. This application pertains to certain real property located at the north side of Center Avenue approximately 364 feet southwest of Skyview Street (911 Address: 19942 Center Avenue, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-310.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, drawings, a plan for the community, pictures, an aerial photograph of the Property, and a survey dated May 4, 2017.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Rich Shipley was sworn in to testify about the Application.
4. The Board found that Mr. Shipley testified that he is the community manager of Sea Air Village and that he is employed by Sun Homes who will be placing the manufactured home on the lot. This request is for variances to allow for the placement of that home.
5. The Board found that Mr. Shipley testified that the lots in the community were laid out in the 1930s or 1940s and the lots in the community are too small to accommodate the smallest manufactured homes available on the market.
6. The Board found that Mr. Shipley testified that the Property is unique because it is too narrow to fit the smallest 14 feet wide manufactured home that is available for purchase today.
7. The Board found that Mr. Shipley testified that the variance will not alter the essential character of the neighborhood.
8. The Board found that Mr. Shipley testified that this home is the 15th new home placed in the community over the last three years in Sea Air Village and this request is the first variance request.
9. The Board found that Mr. Shipley testified that the previous dwelling was a 1967 model that measured approximately 11 feet wide. A 14 feet wide home is the narrowest model available.
10. The Board found that Mr. Shipley testified that the Property cannot be developed in strict conformity without a variance and the variances are necessary to enable the reasonable use of the Property.
11. The Board found that Mr. Shipley testified that the exceptional practical difficulty has not been created by the Applicant.
12. The Board found that Mr. Shipley testified that, without the variances, the lot will be rendered useless.

13. The Board found that no parties appeared in support of or in opposition to the Application
14. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
  - a. The Property is unique as it is narrow and shaped at an angle. The lot was laid out with others in the community in the 1930s or 1940s and the lots are small in comparison with the size of modern-sized manufactured homes. The Applicant has located the narrowest available home on the market but is still unable to place the home on the lot due to the location of the homes on neighboring lots (Lots 64 and 68). Notably, the home on Lot 68 is very close to the property line and its HVAC unit actually encroaches onto the Property. The narrow shape of the lot has created an exceptional practical difficulty for the Applicant who seeks to place a new manufactured home on the Property consistent with others in the neighborhood but cannot do so in compliance with the Sussex County Zoning Code.
  - b. Due to the uniqueness of the Property and the placement of the manufactured home on a neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant proposes to place a reasonably sized manufactured dwelling consistent with other homes in the neighborhood but is unable to do so without violating the separation distance requirements between mobile homes. The variances are thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the dwelling are also reasonable (which is confirmed when reviewing the survey). Furthermore, the Board notes that the Applicant is replacing a small, 1967 model home with a newer model that will be approximately 3 feet wider than the previous home. The Board is convinced that the Applicant was unable to locate a newer model home that was a similar size to the previous home on the lot.
  - c. The exceptional practical difficulty was not created by the Applicant. The Property is quite narrow which greatly limits the buildable area thereof. The buildable area is further restrained by the location of homes on adjacent lots. It appears impossible for a home to be placed on the Property without violating the separation distance requirements. This exceptional practical difficulty was created by the unique conditions of the Property and the development of adjacent lots.
  - d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the home will not have a negative impact on the neighborhood. The un rebutted testimony confirms that there are other similar homes in the neighborhood and the proposed home is consistent with those homes. No evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
  - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant place a reasonably sized

manufactured home on the Property. The home is one of the narrowest models available and minimizes the need for a variance on the Property.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date October 17, 2017