

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HOWARD HYNSON

(Case No. 12051)

A hearing was held after due notice on November 6, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the side yard setback requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 4 feet from the ten (10) feet side yard setback requirement on the north side for a proposed dwelling and a variance of 4 feet from the ten (10) feet side yard setback requirement on the south side for a proposed dwelling. This application pertains to certain real property located on the south side of Blue Teal Road, approximately 1,246 feet northeast of Swann Drive (911 Address: 37046 Blue Teal Road, Selbyville); said property being identified as Sussex County Tax Map Parcel Number: 5-33-12.16-485.00.

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated February 14, 2017, and a portion of the tax map of the area.
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 Howard Hynson was sworn in to testify about the Application.
4. The Board found that Mr. Hynson testified that the Property is improved by an existing mobile home which measures 16 feet by 70 feet. The home has no value and the Applicant plans to remove the existing dwelling on the Property and replace the home with a new modular home. The proposed dwelling measures 28 feet wide by 66 feet deep.
5. The Board found that Mr. Hynson testified that the minimum width for a modular home is 28 feet wide and he chose that model.
6. The Board found that Mr. Hynson testified that he spoke with his neighbors and they support the Application.
7. The Board found that Mr. Hynson testified that he purchased the Property in February 2017.
8. The Board found that Mr. Hynson testified that there have been numerous variances granted in the neighborhood.
9. The Board found that Mr. Hynson testified that the Property is located in Swann Keys.
10. The Board found that Mr. Hynson testified that he will obtain a flood elevation certificate.
11. The Board found that Mr. Hynson testified that there is no off-street parking in the neighborhood and he will need the front portion of the Property for parking. Areas which could have been used for the home must be used for parking.
12. The Board found that Mr. Hynson testified that the stairs will be located in the front and rear of the home and the HVAC system will be located in the rear of the home as well.
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 clearly unique as it is a small and narrow lot. The Property is forty (40) feet wide and consists of only 4,036 square feet; as is clearly shown on the survey. Additionally, there is no off-street parking in the neighborhood and portions of the front yard are needed for parking; thereby greatly limiting an already small building envelope. These unique physical conditions have created an exceptional practical difficulty for the Applicant by creating an unusual and limited building envelope for the Applicant.
- b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property was created many years ago as part of a manufactured home park and the lot is small and narrow. The Applicant seeks to construct a dwelling on the Property but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow the Applicant to place a dwelling on the Property. The Board is convinced that the size, shape, and location of the home are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
- c. The exceptional practical difficulty was not created by the Applicant. The Property was created and developed many years ago and is a narrow and undersized lot. The Board notes that the narrowness of the lot greatly limits the building envelope. The Applicant did not create the size and shape of the lot. Rather, those conditions pre-existed the Applicant's acquisition of the Property. Furthermore, the lack of off-street parking in the community has exacerbated an already difficult situation for the Applicant. Ultimately, these unique physical conditions have resulted in a limited building envelope and have created the exceptional practical difficulty for the Applicant.
- 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 home will replace an existing manufactured home that is in poor condition. The Applicant spoke with his neighbors and they indicated to him their support of the Application. 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 to place a reasonably sized home on the Property and the Applicant selected the narrowest model home offered by the builder. The Applicant has also directed that the stairs and HVAC equipment be placed in the front and rear yards thereby limiting additional encroachment into the side yards.

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. Bruce Mears,

Mr. John Mills, and Mr. Brent Workman. No Board Member 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 January 9, 2018.