

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KATHY W. CAMAC

(Case No. 12144)

A hearing was held after due notice on May 21, 2018. The Board members present were: Mr. Dale Callaway, Mr. Bruce Mears, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard, side yard, and rear yard setback requirements for existing and proposed structures.

Findings of Fact

The Board found that the Applicant is seeking a variance of 4.8 feet from the five (5) feet front yard setback requirement for a proposed addition, variances of 3.7 feet from the five (5) feet side yard setback requirement on the south side for an existing outside shower, covered porch, and HVAC units, a variance of 0.9 feet from the fifteen (15) feet rear yard setback for an existing two-story deck and first-floor screen porch, a variance of 6.0 feet from the fifteen (15) feet rear yard setback for existing steps, and a variance of 1.5 feet from the fifteen (15) feet rear yard setback for an existing two-story deck and first-floor screen porch. This application pertains to certain real property located at the west side of Taft Avenue, approximately 212 feet south of Old Lighthouse Road. (911 Address: 38824 Taft Avenue, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-159.00.

1. The Board was given copies of the Application, a site plan of the Property dated March 15, 2018, a plan of Cape Windsor dated 1966, pictures of the properties in the neighborhood, a building permit, elevation certificates, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received three (3) letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Kathy Camac was sworn in to testify about the Application.
4. The Board found that Ms. Camac testified that she proposes to place a permanent shed where there is already a shed. Her neighbors are supportive of the new shed. The existing shed is approximately 1 foot narrower than the new shed.
5. The Board found that Ms. Camac testified that she has no room for storage and the shed is needed. She believes that there is no place to put a shed without needing a variance. The shed is the minimum size needed for her use and will have a garage door. The shed will be attached to the dwelling but will not have an access to the interior of the dwelling.
6. The Board found that Ms. Camac testified that the neighborhood consists of small lots and were originally created for singlewide manufactured homes by a prior developer.
7. The Board found that Ms. Camac testified that the proposed shed will not affect parking.
8. The Board found that Ms. Camac testified that the variances will not alter the essential character of the neighborhood as there are several homes in the neighborhood that look like her lot.
9. The Board found that Ms. Camac testified that the proposed shed will improve the character of the neighborhood.
10. The Board found that Ms. Camac testified that the house was built in 2001 and the HVAC system, decks, steps, and porch have been on the Property since that time with no complaints from neighbors. There have been no additions made thereto.

11. The Board found that Ms. Camac testified that there is about 6.5 feet from the edge of paving to her front property line.
12. The Board found that one (1) party appeared in support of the Application.
13. The Board found that no parties appeared 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 due to its size. The Property is quite small as evidenced by the survey. The Property is 50 feet wide by 90.03 feet deep and consists of only 4,466 square feet. The unique characteristics of this Property limit the buildable area available to the Applicant and have created an exceptional practical difficulty for the Applicant who seeks to retain existing structures on the lot and to make certain additions thereto.
 - b. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has a unique size and the buildable area thereof is limited due to its size. The Applicant seeks to retain existing structures on the lot and to make certain additions thereto but are 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 reasonably sized, existing structures to remain on the lot and for the Applicant to make certain reasonable additions thereto. The Board is convinced that the shape and location of these structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicant.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unusual size and shape of the Property. Cape Windsor was originally developed as a community for smaller, singlewide manufactured homes with small lot sizes. The unique lot size has resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. The unique characteristics of the Property are clear when reviewing the survey. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but was created by the lot's unique characteristics.
 - 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 structures will have no effect on the character of the neighborhood. Many of the structures have been on the Property for quite some time without noted complaints in the record. In fact, the Applicant provided three (3) letters supporting their application. No evidence was presented that the variances would somehow alter the essential character of the neighborhood. The lack of evidence is telling since, if the structures had somehow altered the essential character of the neighborhood, the Board would expect some evidence thereof. The Applicant also provided photographs demonstrating that similar structures are located in the neighborhood. The Board also notes that the front property line is approximately 6.5 feet from the edge of paving thereby giving the impression that the front of the property larger than it actually is.
 - 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

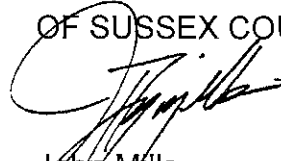
sought will allow the Applicant to retain existing structures and to make reasonable additions thereto. The Board is convinced that the Applicant has taken reasonable measures to reduce encroachments into the setback areas.

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



John Mills
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date August 7, 2018.