

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHRISTOPHER QUINN & ANGELA CULP

(Case No. 12153)

A hearing was held after due notice on July 9, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the rear yard and side yard setback requirements and the separation distance requirements between units for existing and proposed structures.

Findings of Fact

The Board found that the Applicants are seeking a variance of 4.6 feet from the five (5) feet required rear yard setback requirement for an existing shed, a variance of 7.8 feet from the twenty (20) feet separation distance requirement from the dwelling on Lot #31 for the existing shed, a variance of 12.0 feet from the (20) feet separation distance requirement from the shed on Lot #30 for a proposed dwelling, a variance of 5.1 feet from the twenty (20) feet separation distance from the existing dwelling on Lot #30 for a proposed dwelling, a variance of 5.4 feet from the twenty (20) feet separation distance from the existing dwelling on Lot #30 for a proposed dwelling, a variance of 4 feet from the five (5) feet side yard setback requirement on the north side for the proposed dwelling, a variance of 2.3 feet from the twenty (20) feet separation distance from the existing dwelling on Lot #34 for an existing sunroom, and a variance of 8.3 feet from the twenty (20) feet separation distance from the existing deck on Lot #34 for an existing sunroom. This application pertains to certain real property located the west side of Atlantic Avenue, approximately 150 feet south of Parkview Road (911 Address: 19948 Atlantic Avenue, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-310.00-3385.

1. The Board was given copies of the Application, an exterior improvement request, a survey of the Property dated January 18, 2018, a proposed location plan dated January 18, 2018, a building permit application, 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 no correspondence in support of or in opposition to the Application.
3. The Board found that Chad Meredith, Esquire, presented the Application on behalf of the Applicants. The Applicants were unable to attend the hearing but Mr. Meredith provided an affidavit from the Applicants and a letter of support from the owner of Lot #30.
4. The Board found that Mr. Meredith stated that the manufactured home has not been placed on the lot. The home will be a used manufactured home but will be new to the Applicants. The existing sunroom will remain and cannot be moved.
5. The Board found that Mr. Meredith stated that there will be no entrance to the north side of the home and that he is unaware of an HVAC system being proposed.
6. The Board found that no parties appeared in support of or in opposition to the Application.
7. 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 rear yard variances. The findings below further support the Board's decision to approve the rear yard variance requests.
 - a. The Property is unique as it is narrow and shaped at an angle. The Property is only 40.73 feet wide. The Property is also unique because it is located in

a manufactured home park and is constrained by separation distance requirements which limit the placement of structures on the lot based upon the location of structures on neighboring properties. In this case, the structures on nearby properties are located close the property lines. The deck on Lot #34 is actually on the property line. The effect of the placement of these structures combined with the already narrow shape of the lot have led to an exceptionally small building envelope. These conditions have created an exceptional practical difficulty for the Applicants who seek to retain an existing sunroom and shed and to replace the existing manufactured home on the Property but cannot do so in compliance with the Sussex County Zoning Code. The situation is unique because neighboring homes have been placed on other lots and the Applicants have no control over the placement of those homes and structures.

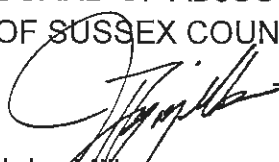
- b. Due to the uniqueness of the Property and the placement of the manufactured homes on neighboring lots, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants propose to retain a reasonably sized shed and sunroom and to replace their manufactured home but are unable to do so without violating the separation distance requirements between structures in a mobile home park and the side yard setback requirement. The variances are thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the dwelling, sunroom, and shed are also reasonable (which is confirmed when reviewing the survey). Notably, the dwelling is similar in location to the prior dwelling; though the new dwelling is longer and slightly wider.
- c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the size of the lot or place the existing dwelling and deck on the Property. Rather, a prior owner placed the dwelling, sunroom, and shed on the Property. The Applicants also did not place the structures on the neighboring properties so close to the property line thereby restricting the building envelope on the Property. This building envelope is further limited due to the narrowness the lot. The unique conditions of the Property and the development of adjacent lots have created an exceptional practical difficulty for the Applicants who seek to retain the sunroom and shed and to replace the manufactured home on the Property.
- 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 not have a negative impact on the neighborhood. The sunroom and shed have been in their present location for many years yet no complaints were noted in the record about their location. The home will be placed in a similar footprint to the existing dwelling. 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. Rather, the Board received documentation that the neighbor on Lot #30 supports the Application.
- 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 Applicants have demonstrated that the variances sought will allow the Applicants retain the shed and sunroom and to replace the manufactured home on the Property.
- f. The Board relied upon the Applicant's affidavit and found the statements made therein to be credible and persuasive.

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, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application. Mr. Bruce Mears did not participate in the discussion or vote of this 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 September 11, 2018