

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ROBERT HICKMAN PROPERTIES

(Case No. 12177)

A hearing was held after due notice on August 6, 2018. 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 minimum lot width requirement for a proposed subdivision.

Findings of Fact

The Board found that the Applicant is seeking a variance of 10.81 feet from the 150 feet minimum lot width requirement for a lot (Parcel A) in proposed subdivision. This application pertains to certain real property located on Irons Lane, approximately 721 feet north of Holts Landing Road and on Holts Landing Road, approximately 1,253 feet of Irons Lane (911 Address: Not Available); said property being identified as Sussex County Tax Map Parcel Number 1-34-7.00-153.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, an aerial photograph of the Property, a survey dated March 17, 1992, and a concept plan dated July 3, 2018.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of the Application or in opposition to the Application.
3. The Board found that Dawn Hickman and Ethan Hickman were sworn in to testify about the Application.
4. The Board found that Ms. Hickman testified that the Applicant seeks to subdivide the existing parcel into two lots. One lot (Parcel A) will front on Irons Lane and the other lot (Residual Lands) will front on Holt's Landing Road. Parcel A will have frontage along Irons Lane of 139.19 feet but will not meet the lot width requirement of 150 feet. The Residual Lands will meet the lot width requirement along Holt's Landing Road. The variance request will result in no less frontage along Irons Lane than currently exists.
5. The Board found that Ms. Hickman testified that the Property is unique because it does not have the required 150 feet of frontage on Irons Lane.
6. The Board found that Ms. Hickman testified that Parcel A will consist of approximately 1 acre and will be improved by a single-family dwelling. Parcel A will be improved by well and septic and all improvements located thereon will be able to meet the setback requirements.
7. The Board found that Ms. Hickman testified that the Property cannot be otherwise developed without this variance.
8. The Board found that Ms. Hickman testified that the exceptional practical difficulty was not created by the Applicant and that the variance will not alter the essential character of the neighborhood.
9. The Board found that Ms. Hickman testified that there are other similar single-family dwellings in the neighborhood and that the variance will improve the essential character of the neighborhood.
10. The Board found that Ms. Hickman testified that the variance requested is the minimum variance necessary to afford relief.
11. The Board found that Glen Hickman was sworn in to testify in support of the Application.

12. The Board found that Glen Hickman testified that a nearby property has only 100 feet of frontage and that he supports the Application.
13. The Board found that one (1) party appeared in support of the Application and no parties appeared 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, which consists of nearly 10 acres as shown on the tax map, is unique as it is a large parcel with frontages on two roads (Irons Lane and Holt's Landing Road). The Property has sufficient road frontage along Holt's Landing Road but the frontage along Irons Lane is narrow. While the Property is large and could easily accommodate two separate lots, the frontage along Irons Lane is too narrow to be subdivided in that fashion. These unique characteristics of the Property have created an exceptional practical difficulty for the Applicant who seeks to subdivide the lot.
 - b. Due to the Property's unique conditions, the Property cannot be subdivided in strict conformity with the Sussex County Zoning Code. The Applicant seeks to subdivide the Property into two lots but is unable to do so without violating the Sussex County Zoning Code due to the narrowness of the lot along Irons Lane. The Board is convinced that the proposed subdivision of the Property is reasonable and that the variance requested is necessary to enable the reasonable use of the Property as the variance will allow the Applicant to reasonably subdivide the Property. The survey attached to the Application confirms that the subdivision is reasonable.
 - c. The exceptional practical difficulty was not created by the Applicant. The Property has a unique size and shape and the Property is quite large and could easily service two separate lots but the Property is too narrow along Irons Lane to meet the lot width requirement. The unique characteristics of the Property are clear when reviewing the survey and tax map. The Board is convinced that these unique conditions have created an exceptional practical difficulty for the Applicant.
 - d. The variance 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 Property will be subdivided into two lots – one of which will meet the necessary lot width requirement and one of which will be smaller than the lot width requirement. The un rebutted evidence confirms that the portion of the Property along Irons Lane has had the same road frontage for many years and the amount of road frontage along Irons Lane will not be reduced by this subdivision. No evidence was presented that the proposed subdivision of the Property would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Notably, an adjacent property consists of only 100 feet of road frontage along Irons Lane.
 - e. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance will allow the Property to be subdivided into two lots. The proposed subdivision will include one lot which will meet the lot width requirement. While the road frontage for Parcel A will be less than 150 feet, there is no actual change to the road frontage from the Property along Irons Lane as the subdivision does not change the amount of available road frontage.

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 Members 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 October 2, 2018.