

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: VIKKI L. MAST

(Case No. 12206)

A hearing was held after due notice on October 1, 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 rear yard setback requirement for a proposed structure.

Findings of Fact

The Board found that the Applicant is seeking a variance of 15 feet from the twenty (20) feet rear yard setback requirement for a proposed accessory structure. The structure will be located on the south side of the lot. This application pertains to certain real property located on the southeast corner of Chaplains Chapel Road and Deer Forest Road (911 Address: 13120 Deer Forest Road, Bridgeville); said property being identified as Sussex County Tax Map Parcel Number 4-30-17.00-11.02.

1. The Board was given copies of the Application, a survey of the Property dated April 24, 2018, 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 Vikki Mast was sworn in to testify about the Application.
4. The Board found that Ms. Mast testified that the Property is unique because it is a corner lot and has a unique shape.
5. The Board found that Ms. Mast testified that a shed will be removed to place a garage and it can only be placed in this location as it is close to the shared driveway.
6. The Board found that Ms. Mast testified that the need for the variance was not created by the Applicant as there is a septic field in the front of the house. A ditch is also located in front of the home.
7. The Board found that Ms. Mast testified that the variance will not affect neighboring property as the farm is owned by family members and the neighbors support the Application.
8. The Board found that Ms. Mast testified that the variance requested is the minimum variance to allow for the garage.
9. The Board found that Ms. Mast testified that the garage will measure 32 feet by 56 feet.
10. The Board found that two (2) parties appeared in support of and no one appeared in opposition to the Application.
11. 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 shape and the location of a septic field. The Property is a corner lot and has frontage on Deer Forest Road and Chaplin's Chapel Road. Since the lot is a corner lot, the building envelope is smaller than normal. The Property is also burdened by a ditch and septic system in the front yard which further limits the building envelope. The Applicant seeks to construct the garage near her shared driveway and the

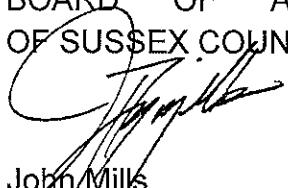
proposed location of the garage is the only practical location where it can be located. The lot's unique conditions limit the buildable area available to the Applicant and have created an exceptional practical difficulty for the Applicant who seeks to construct a garage on the lot.

- 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 shape and the buildable area thereof is limited due to the shape of the lot and the location of a septic system and ditch. The Applicant seeks to construct a garage but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow reasonably sized garage to be constructed on the Property. The Board is convinced that the shape and location of the garage 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 shape of the Property or direct the location of the septic system. The Property is also burdened by a shared driveway which restricts the practical locations where a garage could be located. These unique conditions have 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 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 Board is convinced that the garage will have no effect on the character of the neighborhood. The garage will be located to the rear of the Property near other structures. There was no evidence that the location of the garage in the rear yard setback area would somehow affect the neighborhood and no evidence was presented that the variance would somehow alter the essential character of the neighborhood. Rather, the Applicant indicated that neighbors support the Application.
- e. The variance sought is the minimum variance necessary to afford relief and the variance requested represent the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance sought will allow the Applicant to construct a reasonably sized garage 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. 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 December 11, 2018.