

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RAYMOND STEPP

(Case No. 12312)

A hearing was held after due notice on June 3, 2019. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the side yard, rear yard, and separation distance requirements for existing structures.

Findings of Fact

The Board found that the Applicant is requesting the following variances: 1) a variance of 0.8 feet from the five (5) feet rear yard setback requirement for an existing shed; 2) a variance of 0.6 feet from the five (5) feet side yard requirement on the north side for an existing shed; 3) a variance of 3.3 feet from the five (5) feet rear yard requirement for an existing screened porch; and 4) a variance of 0.7 feet from the fifteen (15) feet separation distance requirement for accessory structures within a manufactured home park for an existing shed on this lot and an existing mobile home on Lot 8. The Property is located on the west side of Sheffield Drive approximately 435 feet south of Andover Lane in the Sussex East Manufactured Home Park (911 Address: 13 Sheffield Drive, Lewes) said property being identified as Sussex County Tax Map Parcel Number: 3-34-5.00-165.00 Unit 36947.

1. The Board was given copies of the Application, a survey of the Property dated March 21, 2019, 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 Raymond Stepp was sworn in to testify about the Application.
4. The Board found that Mr. Stepp testified that the site is too small for existing needs and structures but most of the variances could have been handled administratively.
5. The Board found that Mr. Stepp testified that the Property is unique as it is a small lot in a manufactured home park.
6. The Board found that Mr. Stepp testified that there is no other place to put a shed on the Property without requesting a variance due to the location of the existing sewer line which is located between the house and the shed. The sewer line restricts the Applicant from moving the shed into compliance with the Code.
7. The Board found that Mr. Stepp testified that the porch was on the lot when he acquired his interest in the Property.
8. The Board found that Mr. Stepp testified that he hired a contractor to replace an older shed with the existing shed. The permit was issued in September 2018 and the shed was placed on the concrete pad of the old shed in March 2018. The new shed is approximately 4 feet longer than the previous shed. The original shed was placed on the lot 30 years ago.
9. The Board found that Mr. Stepp testified that there are bugs in the yard and the porch affords the Applicant with reasonable use of the outdoor space.
10. The Board found that Mr. Stepp testified that there have been no complaints about the structures.
11. The Board found that Mr. Stepp testified that there is common area to the rear of the Property.

12. The Board found that Mr. Stepp testified that this exceptional practical difficulty was not created by the Applicant as the Property was purchased with existing structures.
13. The Board found that Mr. Stepp testified that the variances will not alter the character of the neighborhood as other residents have received similar variances.
14. The Board found that Stevan Class was sworn in to give testimony about the Application.
15. The Board found that Mr. Class testified that he is a member of the owner of Sussex East Manufactured Home Park and that he has no objections to the placement of the shed. He also noted that the park does not allow for construction without a building permit from the County.
16. The Board found that six (6) parties appeared in support of and no parties appeared in opposition to the Application.
17. 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 as it is shallow lot measuring only 50 feet deep. 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 dwelling on the adjacent Lot 8 is only 14.3 feet away from the Applicant's shed. The effect of the placement of these structures combined with the already shallow shape of the lot have led to an exceptionally small building envelope. The lot is also unique because the sewer line is located between the house and shed thereby limiting the placement of shed on the lot. These conditions have created an exceptional practical difficulty for the Applicant who seeks to retain an existing porch and shed 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 Applicant has no control over the placement of those homes and structures.
 - b. Due to the uniqueness of the Property and the placement of the manufactured home on a neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant proposes to retain an existing porch and shed but is unable to do so without violating the separation distance requirements between structures in a mobile home park and the rear 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 porch and shed are also reasonable (which is confirmed when reviewing the survey). Notably, the shed is similar in location to the prior shed; though the new shed is slightly longer. The Board also notes that the Property has bug problems and the porch is necessary to afford the Applicant with reasonably outdoor space.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the size of the lot or place the existing dwelling and porch on the Property. Rather, a prior owner placed those structures on the Property. The Applicant also did not place the house on the neighboring properties thereby restricting the building envelope on the Property. This building envelope is further limited due to the shallowness the lot and the location of the sewer line. The unique conditions of the Property and the development of the adjacent lot have created an exceptional practical difficulty for the Applicant who seeks to retain the porch and shed.

- 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 porch and a shed have been in their present location for many years yet no complaints were noted in the record about their location. The shed was recently replaced in a similar footprint to the prior shed and neighbors have not objected thereto. 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 and testimony that the neighbors and the park owner support 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 Applicant has demonstrated that the variances sought will allow the Applicants retain the shed and porch. No additions or modifications to those structures are proposed.

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 of the motion to approve were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, 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 June 18, 2019.