

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CARL E. HAWS

(Case No. 12313)

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 separation distance requirement for existing structures.

Findings of Fact

The Board found that the Applicant is requesting variances of 0.8 feet from the fifteen (15) feet separation distance requirement for an existing screened porch and steps on the lot to structures on the adjacent Lot 51. The Property is located on the west side of Lantern Lane approximately 193 feet northwest of Olde Coach Drive in the Colonial East Manufactured Home Park (911 Address: 49 Lantern Lane, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number: 3-34-6.00-335.00 Unit 53002.

1. The Board was given copies of the Application, a survey of the Property, letters of support, 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 four letters in support of and no correspondence in opposition to the Application.
3. The Board found that Carl Haws was sworn in to testify about the Application.
4. The Board found that Mr. Haws testified that the lot is unique as it is a small lot in a manufactured home park.
5. The Board found that Mr. Haws testified that the lot cannot be developed with a screened porch in another area of the Property as this is the location of the existing entrance to the dwelling.
6. The Board found that Mr. Haws testified that a screened porch is necessary to give relieve from bugs in the evening.
7. The Board found that Mr. Haws testified that the practical difficulty was not created by the Applicant as he relied on the builder, AM Construction, to follow the permit guidelines.
8. The Board found that Mr. Haws testified that the variances will not affect the essential character of the neighborhood. Letters of support from neighbors have been submitted into the record.
9. The Board found that Mr. Haws testified that it is the smallest porch that could be constructed to allow for furniture to be moved into the home through the porch.
10. The Board found that Mr. Haws testified that the porch measures 6.4 feet by 22.2 feet. He tried to make a narrower porch but it was not feasible.
11. The Board found that Mr. Haws testified that there have been no complaints about the porch.
12. The Board found that six (6) parties appeared in support of and no parties appeared in opposition to the Application.
13. 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 narrow lot measuring only 45.18 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 dwelling on the adjacent Lot 51 is only 14.2 feet away from the Applicant's porch and steps. 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 Applicant who seeks to retain an existing porch and steps 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 steps but is unable to do so without violating the separation distance requirements between structures in a mobile home park 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 steps are also reasonable (which is confirmed when reviewing the survey). 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 house on the neighboring properties 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 the adjacent lot have created an exceptional practical difficulty for the Applicant who seeks to retain the porch and steps. The Board also notes that the Applicant relied on his builder to construct the porch and steps in compliance with the Code only to later learn of the encroachments.
- 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 steps have been in their present location for some time yet no complaints were noted in the record about their location. 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 neighbors 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 steps and porch. No additions or modifications to those structures are proposed. The Board also notes that the porch is quite narrow and is only large enough to allow the Applicant to have safe access to the dwelling. The Applicant testified that he tried to make the porch narrower but was unable to do so while still meeting his intended use.

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, 2009.