

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SUN HOME SERVICES, INC.

(Case No. 12386)

A hearing was held after due notice on November 18, 2019. The Board members present were: Dr. Kevin Carson, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the side yard setback requirement for a proposed shed.

Findings of Fact

The Board found that the Applicant is seeking a variance of 6 feet from the twenty (20) feet separation distance requirement from the dwelling on Lot 63 for a proposed shed. This application pertains to certain real property located on the southeast side of Center Avenue approximately 238 feet west of Skyview Street in the Sea Air Village Manufactured Home Park (911 Address: 19929 Center Avenue, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-310.00 Unit 48951. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a survey of the Property dated June 7, 2019, pictures, an aerial photograph of the Property, findings of fact for Case No. 11261, 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 Kaylie Bush was sworn in to testify about the Application.
4. The Board found that Ms. Bush testified that the variance is for a proposed shed and that there is no place on the lot where the shed can be placed.
5. The Board found that Ms. Bush testified that the variance is necessary to enable reasonable use of the Property.
6. The Board found that Ms. Bush testified that the Property is located in Sea Air Village where lots were created in the 1930s and 1940s.
7. The Board found that Ms. Bush testified that the Property is unique as the lot is narrow and the usable space is limited.
8. The Board found that Ms. Bush testified that the shed will improve the neighborhood.
9. The Board found that Ms. Bush testified that the prior manufactured home on the lot had a variance. The Applicant intends to place a new dwelling on the lot and the entrances to the dwelling will be on the left side.
10. The Board found that Ms. Bush testified that wherever the shed would be placed on the lot, it would create non-conformity.
11. The Board found that Ms. Bush testified that the need for a shed was not created by the Applicant but by the narrowness of the lots.
12. The Board found that Ms. Bush testified that the proposed shed will not alter the character of the neighborhood as there are many sheds in the neighborhood.
13. The Board found that Ms. Bush testified that granting the variance will make this property more uniform with the other properties in the community and that the shed could be placed in the rear of the property for a lesser variance but then would not match the character of the neighborhood.
14. The Board found that Ms. Bush testified that the house on Lot 63 has been on that lot for a long time and is located on the lot line.
15. The Board found that no one appeared in support of or in opposition to the Application.

16. 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 for the variances met the standards for granting a variance. The findings below further support the Board's decision to approve the Application for the variances for that structure.
- a. The Property is unique as it is an angled, narrow lot measuring only 40.46 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 63 is exceptionally close to the shared 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 unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to place a new 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. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
 - c. 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 place a new shed but is unable to do so without violating the separation distance requirements between structures in a manufactured home park requirement. The variance is thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the shed are also reasonable (which is confirmed when reviewing the survey).
 - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. The Applicant did not create the size of the lot or place the houses 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 and unnecessary hardship for the Applicant who seeks to place a new shed on the lot.
 - e. 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 shed will not have a negative impact on the neighborhood. The shed will be similar to other sheds in the neighborhood and will be similarly situated on the lot as sheds on neighboring lots. No evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
 - f. 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 sought will allow the Applicant to place a new shed. The shed is similar to other sheds in the neighborhood and is a small shed. The Board notes that there is no place on the lot where a shed could be placed that would comply with the separation distance requirement. Furthermore, the placement of

the shed in this location is consistent with the placement of other sheds in the neighborhood.

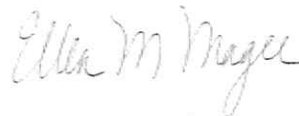
- g. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

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 Dr. Kevin Carson, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application. Mr. Jeffrey Chorman did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date January 28, 2020.