

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: COASTAL SERVICES, LLC

(Case No. 12464)

A hearing was held after due notice on December 14, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, and Mr. John Williamson.

Nature of the Proceedings

This is an application for variances from the side yard setback requirement for a proposed and existing structures.

Findings of Fact

The Board found that the Applicant is requesting a variance of 7.5 feet from the ten (10) feet side yard setback requirement on the GR portion of the property and a variance of 17.5 feet from the twenty (20) side yard setback requirement on the B-1 portion of the property for a proposed storage building. Both variance requests are from the side yard setback requirement on the north side of the lot. This property is split-zoned with the rear portion of the lot being zoned GR and the front portion of the lot being zoned B-1. The GR and B-1 zones have different setback requirements but the proposed storage building will be located in both zoning districts. This application pertains to certain real property located on the west side of Cedar Neck Road at the Hickman Road intersection (911 Address: 30430 Cedar Neck Road, Ocean View) said property being identified as Sussex County Tax Map Parcel Number 1-34-9.00-67.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a deed to the Property, a survey of the Property dated May 6, 2020, drawings, portions of the Sussex County Zoning Code, letters supporting the Application, 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 George Elliott was sworn in to testify about the Application. Mackenzie Peet, Esquire, appeared on behalf of the Applicant.
4. The Board found that Ms. Peet stated that George Elliott is the owner of Coastal Services, which is a business that provides a wide variety of services including plumbing, HVAC, electrical work, general contracting and power washing. The business has been in operation in Sussex County for more than twenty years.
5. The Board found that Ms. Peet stated that no variance is needed for the deck because it is located at ground level. Rather, the Applicant is requesting side yard variances to place a 6,720 square foot pole barn.
6. The Board found that Ms. Peet stated that there is a need for indoor storage for the business.
7. The Board found that Ms. Peet stated that there are five neighbors who support this Application.
8. The Board found that Ms. Peet stated that the Applicant has agreed to install privacy fencing between the Property and the lands of Colleen Sagers and that a building permit has been obtained for the fencing.
9. The Board found that Ms. Peet stated that the business has operated from the B-1 portion of this property for a number of years and the Applicant purchased the GR portion and combined both lots into one parcel.

10. The Board found that Ms. Peet stated that the business was a permitted use in the B-1 district but needed a conditional use permit for the GR district and that approval has been received.
11. The Board found that Ms. Peet stated that the proposed pole barn will provide storage for work equipment and materials and the building will improve the aesthetics of the site.
12. The Board found that Ms. Peet stated that the pole barn placement is determined by the existing buildings on the property.
13. The Board found that Ms. Peet stated that the placement also allows for greater accessibility for employees to move and trade equipment in and out of the pole barn.
14. The Board found that Ms. Peet stated that the placement of this building will allow a large turning radius to get equipment in and out of the pole barn.
15. The Board found that Ms. Peet stated that the Property is unique as it is a five-sided property with split-zoning and that the Property cannot otherwise be developed because of the placement of the dwelling and other buildings and employee parking existing on the lot. According to Ms. Peet, the dwelling and other buildings were placed by a prior owner.
16. The Board found that Ms. Peet stated that the exceptional practical difficulty was not created by the Applicant.
17. The Board found that Ms. Peet stated that the variances will not alter the essential character of the neighborhood as there is another split-zoned parcel in close proximity and general commercial properties in the area.
18. The Board found that Ms. Peet stated that the use is compatible with some existing uses in the area.
19. The Board found that Ms. Peet stated that these variances are the minimum variances to afford relief and allow for the placement of the pole barn to provide storage for equipment and materials.
20. The Board found that Ms. Peet stated that the Applicant looked at other locations on the lot for the pole barn but it could not be located elsewhere.
21. The Board found that Ms. Peet stated that there is property zoned C-1 to the east of the site and there is a shopping center nearby.
22. The Board found that Mr. Elliott affirmed the statements made by Ms. Peet as true and correct.
23. The Board found that Mr. Elliott testified that there are similar pole buildings in the neighborhood.
24. The Board found that Mr. Elliott testified that he plans to move the storage containers and the shed.
25. The Board found that Mr. Elliott testified that he explored other options for the placement of the pole building but that this was the best placement for the needs of the business and the current conditions on the Property.
26. The Board found that Mr. Elliott testified that he needs room for the turning radius of equipment.
27. The Board found that Mr. Elliott testified that he will be able to maintain the building while remaining on the lot and that there will be no steps or doors at the back of the building.
28. The Board found that Mr. Elliott testified that there is a tree on the property that causes further impediments.
29. The Board found that no one appeared in support of or opposition to the Application.
30. 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 unrebutted, the Board determined that the application for the variance 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 a long but narrow, split-zoned property. The front portion of the lot has been used for a general contracting business for approximately 20 years and the rear portion of the lot is zoned differently than the front of the lot. The Applicant recently obtained a conditional use permit to allow for use of the rear portion of the lot for its business. The Property was previously developed by a prior owner with a dwelling and storage buildings and the Applicant did not place those structures on the lot. The southerly property line also has a unique angle which renders the middle of the lot narrower than the front and rear. The Applicant needs a storage building to locate its equipment but is unable to locate it elsewhere on the lot due to the need for a sufficient turning radius, which is hampered by the narrowness of the lot. The Board is convinced that the Property has unique conditions which limit the area where a storage building can be located. The unique conditions the lot and the unique situation have created an exceptional practical difficulty and an unnecessary hardship for the Applicant who seeks to construct the pole building but cannot do so in compliance with the Sussex County Zoning Code.
- 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 situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to construct the pole building but is unable to do so without violating the side 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 pole building are also reasonable (which is confirmed when reviewing the survey). The Board notes that a larger turning radius is needed for the Applicant to reasonably use the pole building but the narrowness of the lot has greatly limited the area where the pole building can be located. The pole building is also important for the Applicant's business as it will provide much needed indoor storage.
- d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. The Property has unique conditions which greatly limits the buildable area thereof. This unnecessary hardship and exceptional practical difficulty were created by the unique conditions of the Property. The Board notes that the Property was also previously developed by a prior owner and the Applicant is limited in the development of the lot due to the prior development thereof and by the narrowness of the lot.
- e. 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 structure will not have a negative impact on the neighborhood. 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. The Applicant testified that there are similar pole buildings in the neighborhood as well. Furthermore, the Applicant submitted evidence that neighbors support the variance request. The Board also notes that the pole building will allow the Applicant to store its equipment inside rather than outside and that should improve the aesthetics of the area as well.
- f. 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 Applicant to construct the pole building on the Property.

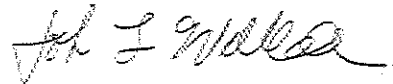
- The pole building is reasonable in size and will accommodate the Applicant's equipment while providing sufficient room for a turning radius. The Board is convinced that the Applicant looked at other locations for the pole building but was constrained by the unique conditions of the Property.
- g. The 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 the variance were Dr. Kevin Carson, Mr. Jeffrey Chorman, Ms. Ellen Magee, and Mr. John Williamson. No Board Member voted against the Motion to approve the variance application. Mr. Brent Workman did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Williamson
Acting Chair

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

Date February 15, 2021.