

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: REHOBOTH INN JK, LLC**

**(Case No. 12489)**

A hearing was held after due notice on November 2, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard and rear yard setback requirements for existing and proposed structures.

Findings of Fact

The Board found that the Applicant is requesting the following variances: 1) a variance of 32.15 feet from the sixty (60) feet front yard setback requirement for steps and a landing on Building A; 2) a variance of 37.73 feet from the sixty (60) feet front yard setback requirement for steps and a landing on Building A; 3) a variance of 33.36 feet from the sixty (60) feet front yard setback requirement for Building A; 4) a variance of 34.02 feet from the sixty (60) feet front yard setback requirement for Building A; 5) a variance of 28.23 feet from the sixty (60) feet front yard setback requirement for Building B; 6) a variance of 31.06 feet from the sixty (60) feet front yard setback requirement for Building B; 7) a variance of 11.53 feet from the thirty (30) feet rear yard setback requirement for Building C; 8) a variance of 10.48 feet from the thirty (30) feet rear yard setback requirement for Building C; and 9) a variance of 9.57 feet from the thirty (30) feet rear yard setback requirement for Building C. This application pertains to certain real property located on the southwest side of Coastal Highway (Route 1) approximately 153 feet southeast of Washington Street (911 Address: 20494 Coastal Highway, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number 3-34-19.08-176.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, property records, a survey of the Property dated September 2, 2020, a proposed site plan of the Property dated September 2, 2020, 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 Greg Tobias and Zac Crouch were sworn in to give testimony about the Application.
4. The Board found that Mr. Crouch testified that the Property was developed with three buildings in the 1970s and has been used as the Rehoboth Inn.
5. The Board found that Mr. Crouch testified that there are three buildings on the site identified as Building A, Building B, and Building C. The Applicant intends to renovate Building A, remove and replace Building B, and renovate and add to Building C.
6. The Board found that Mr. Crouch testified that Building B is not structurally sound and needs to be replaced as it is not fit for renovation.
7. The Board found that Mr. Crouch testified that that Building C will be renovated with an addition measuring 20 feet by 20 feet and that the addition to Building C will be no closer to the rear property line than the existing building.
8. The Board found that Mr. Crouch testified that other buildings on nearby properties are closer to Route 1.
9. The Board found that Mr. Crouch testified that the Property cannot otherwise be developed based on Fire Marshal and ADA requirements.

10. The Board found that Mr. Crouch testified that Buildings A and B will not encroach farther into the setback areas than what exists today but Building C will encroach slightly more than what exists today.
11. The Board found that Mr. Crouch testified that Building B does not meet Fire Marshal or ADA requirements.
12. The Board found that Mr. Crouch testified that the requested variances will not alter the essential character of the neighborhood as the majority of buildings in the vicinity of this property encroach into the front yards setbacks.
13. The Board found that Mr. Crouch testified that the total number of units will be reduced from 31 to 21 to meet today's standards.
14. The Board found that Mr. Crouch testified that there is a right-of-way for DeIDOT and that the entrance has to be widened to meet DeIDOT requirements.
15. The Board found that Mr. Crouch testified that the variances are the minimum variances to afford relief.
16. The Board found that Mr. Crouch testified that the Property is unique as the existing buildings onsite and buildings on adjacent lots do not meet the current setback requirements.
17. The Board found that Mr. Crouch testified that there has been a motel on this property since at least 1992.
18. The Board found that Mr. Crouch testified that the developer is reducing the number of units to comply with parking requirements.
19. The Board found that Mr. Crouch testified that the proposed encroachments are no greater than those that already exist and have existed for a number of years.
20. The Board found that Mr. Crouch testified that the Applicant is enhancing the area.
21. The Board found that Mr. Tobias testified that he purchased the Property in April 2020 and that he is cleaning up the area.
22. The Board found that Mr. Tobias testified that the motel was built in the 1970s.
23. The Board found that Mr. Tobias testified that he is decreasing the number of units but increasing the size of each unit to meet today's standards.
24. The Board found that Mr. Tobias testified that the current rooms in Building B are small.
25. The Board found that Mr. Tobias testified that there have been no complaints regarding the existing structures.
26. The Board found that Mr. Crouch testified that the Property is narrow and the Applicant is constrained by Fire Marshal regulations.
27. The Board found that Mr. Crouch testified that granting the variances will not cause any visibility issues.
28. The Board found that Mr. Crouch testified that Building B cannot be moved to the rear of the Property due to the location of the stormwater management pond.
29. The Board found that Mr. Crouch testified that the Applicant wanted to renovate Building B but determined that it could not be refurbished.
30. The Board found that Mr. Crouch testified that the Applicant encountered difficulty in designing due to structural problems with Building B and the Fire Marshal regulations. Mr. Tobias confirmed that he encountered design challenges.
31. The Board found that Mr. Tobias testified that there were previously 32 parking spaces on the site.
32. The Board found that Mr. Tobias testified that Building A has a basement and steel columns but Building B was constructed on wood with crawl spaces and is the oldest building. He believes that Building B is structurally unsafe and needs to be demolished.
33. The Board found that Mr. Tobias testified that Building B has been empty for some time.
34. The Board found that Mr. Tobias testified that there is a construction office located to the south of the site which was renovated 4 years ago.

35. The Board found that Mr. Crouch testified that that there is 25 feet from the travel lane of Route 1 to the property line.
36. The Board found that Mr. Crouch testified that one employee will live on site.
37. The Board found that Mr. Crouch testified that the buildings have to be improved with sprinklers per Fire Marshal regulations.
38. The Board found that Mr. Crouch testified that there is a 15 feet perimeter access per Fire Marshal's requirements and that there is a green space requirement as well.
39. The Board found that no one appeared in person in support of or opposition to the Application.
40. The Board found that David O'Berry was sworn in on teleconference to give testimony in support of the Application.
41. The Board found that Mr. O'Berry testified that he lives in a single-family home to the rear of the Property.
42. The Board found that Mr. O'Berry testified that he likes that the Applicant is reducing the density.
43. The Board found that Mr. O'Berry testified that the building is really run down and he is pleased that it is being improved.
44. The Board tabled its decision on the Application until December 14, 2020, at which time the Board discussed and voted on the Application.
45. 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 lot that has been used for a motel for many years and the motel needs to be renovated. As part of the existing development, the Property is improved by 3 buildings; one of which is structurally unsound and needs to be replaced. The other buildings also need renovations. The Applicant proposes to reduce the number of rooms on the site but is constrained by regulations applicable to the use, such as storm water management, parking, ADA, and Fire Marshal requirements. These conditions greatly limit the area where renovations can be made. The lot's unique conditions limit the buildable area available to the Applicant and have created an unnecessary hardship and an exceptional practical difficulty for the Applicant who seeks to renovate its motel as proposed.
  - 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 lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has unique development history as it was developed by a three-building motel for many years. The motel has become outdated and needs renovations and, with respect to one building, reconstruction. The Applicant is unable to do so, however, without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow the Applicant to reasonably renovate the structures as proposed. The Board is convinced that the shape and location of the structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicant.
  - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. The Applicant only recently acquired the Property and did not place the existing structures on the lot. Rather, those structures were placed on the lot many years ago by a prior owner. The Applicant is severely constrained by other regulations such as stormwater management, Fire Marshal, ADA, and parking requirements and those

requirements greatly limit the Applicant's ability to develop the lot. The Board notes that the lot is not particularly large either. The Board is convinced that the unnecessary hardship and exceptional practical difficulty were not created by the Applicant but was created by the lot's unique characteristics and history.

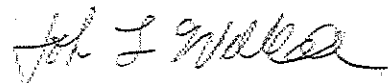
- e. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the proposed renovations will have no effect on the character of the neighborhood. The renovations should improve a motel which has fallen into disrepair and the renovations should be an improvement to the area. The Board notes that a neighbor has submitted support of the Application as well. The Board also notes that Building B will encroach less than the prior Building B. There was no evidence that the location of the structures would somehow affect the neighborhood and no evidence was presented that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
- 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 reasonably renovate the existing structures on the lot and to reconstruct Building B. The Applicant is reducing the number of rooms for the motel and will have to meet other regulations as part of its design.
- 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, Mr. Jeffrey Chorman, and Mr. John Williamson. Ms. Ellen Magee voted against the Motion to approve the variance application. Mr. Brent Workman did not participate in the 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.