

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LINDA REICHEL & ANN FONES

(Case No. 12524)

A hearing was held after due notice on March 1, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the separation distance requirement for proposed and existing structures.

Findings of Fact

The Board found that the Applicants are requesting a variance of 0.3 feet from the twenty (20) feet separation distance requirement for existing steps from the dwelling on Lot 93, a variance of 0.3 feet from the twenty (20) feet separation distance requirement for an existing foundation and the proposed sunroom from the dwelling on Lot 93, and a variance of 9.8 feet from the twenty (20) feet separation distance requirement for an existing foundation and the proposed sunroom from the dwelling on Lot 93. The Property which is the subject of this Application is identified as Lot 92 in the Camelot Meadows Manufactured Home Park. The Property is located on the southwest side of Prince Street within the Camelot Meadows Manufactured Home Park (911 Address: 19676 Prince Street, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number: 3-34-13.00-304.00-56145. 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 January 15, 2021, a letter supporting the Application, a drawing of the site, building plans, a building permit application, photographs, 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 one letter in support of and no correspondence in opposition to the Application.
3. The Board found that Linda Reichel, Ann Fones, and Alejandro Cornejo were sworn in to testify about the Application.
4. The Board found that Ms. Fones testified that the Applicants intended to build a sunroom addition to their dwelling and that they obtained a building permit but do not know who signed for the permit.
5. The Board found that Ms. Fones testified that the footers were approved by the County but the Applicants did not realize that the measurement was also taken diagonally from the adjacent building.
6. The Board found that Ms. Fones testified that the addition cannot be completed without a variance.
7. The Board found that Ms. Fones testified that the Applicants have custody of two grandchildren and additional living space is needed.
8. The Board found that Ms. Fones testified that this addition will not alter the appearance of the neighborhood and that the adjacent neighbor has submitted a letter of support.
9. The Board found that Ms. Fones testified that only the front corner of the addition does not comply with the setback requirements.
10. The Board found that Ms. Fones testified that the Property is leased land and that the landlord did not give the setback information.
11. The Board found that Ms. Fones testified that there have been no complaints about the existing steps.

12. The Board found that Mr. Cornejo, who is the Applicants' contractor, testified that he obtained the permit for this addition.
13. The Board found that Mr. Cornejo testified that the blueprints were approved and the footers passed the inspection.
14. The Board found that Mr. Cornejo testified that he was not aware of the 20 foot separation distance requirement.
15. The Board found that Mr. Cornejo testified that, when framing began, the Park Manager stopped by and told them they were not in compliance and were too close to the adjacent building.
16. The Board found that Mr. Cornejo testified that it was difficult to get the information from the management regarding setbacks and for a survey.
17. The Board found that Mr. Cornejo testified that the exceptional practical difficulty was not created by the Applicants but by the lack of information from the Park management office.
18. The Board found that Mr. Cornejo testified that they will use the existing steps to a foyer and that there will be no new steps off the front but there will be new steps to the rear. No variance will be needed for those steps.
19. The Board found that Ms. Fones testified that the landlord supports the Application.
20. The Board found that Ms. Fones testified that there have been no complaints about the steps and that the steps were on the lot when they moved to the site. She noted that the steps will connect to the sunroom.
21. The Board found that Carol McFarland and Shirley Wright were sworn in to give testimony in opposition to the Application.
22. The Board found that Ms. McFarland testified that she has lived in the community since 2009 and that a copy of the rules are given to tenants when they move into the community. She claimed that the rules are reinforced in the newsletter and that, when doing work on your home, you are to approach the office to get approval. She did, however, note that there have been staffing issues with the landlord.
23. The Board found that Ms. McFarland testified that fires can spread more easily when homes are closer together and that is her biggest concern. She has also expressed concerns about the effect on noise and smells.
24. The Board found that Ms. McFarland testified that the homeowners association is a social organization that has no say in building but she has previously served on the association board.
25. The Board found that Ms. McFarland testified that she does not oppose the variance for the steps but opposes the variance for the sunroom.
26. The Board found that Ms. McFarland testified that the reason she is opposed is that she objects to this variance to set a precedent for the community.
27. The Board found that Ms. McFarland testified that room is also needed for lawn mowers.
28. The Board found that Ms. Fones testified that, when the Applicants moved into the dwelling, a park manager was not on site so they spoke to the salesperson and were told that drawings should be submitted to the County to obtain permits for any improvements.
29. The Board found that Ms. Fones testified that that, when the footers were approved, they assumed they were in compliance with County Code.
30. The Board found that Ms. Fones testified that the Applicants did not place the home but they do own the home.
31. The Board found that Mr. Cornejo testified that the pictures submitted by the Applicants are of recent additions and that has created confusion about why this addition is not approved.
32. The Board found that Ms. Wright testified that she is concerned if the variance is granted it will reduce the size of lots within the Park.

33. The Board found that no one appeared in support of the Application and four people appeared in opposition to the Application.
34. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, 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 a lot in a manufactured home park where the boundaries of the lot are difficult to ascertain. The Property was recently improved with a manufactured home that is narrower than the homes on neighboring lots and the Applicants seek to retain an existing set of steps and to finish construct of a sunroom addition to better accommodate their family. The area where such sunroom addition can be placed is limited due to the proximity of the homes on the adjacent lots. Even though the Applicants' home is narrower than the homes on neighboring lots, it appears difficult to construct an addition that would not require a variance. Likewise, the steps which are needed to access the home also encroach slightly into the setback area. The Property is subject to separation distance requirements from other structures in the neighborhood and the Applicants are restricted on where to place certain structures due to those requirements. The development on neighboring properties has significantly constrained the Applicants. Due to the location of the structures on the neighboring lots and the unique size and shape of the lots, the Applicants' building envelope is narrow and limited. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicants who seeks to construct a new addition and retain existing steps on the lot but are unable to do so without a variance.
 - 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 situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The lot is small and narrow and is significantly limited by the separation distance requirements. The structures on neighboring lands were placed by neighbors and the Applicants seek to construct an addition and to retain steps on its lot but are unable to do so 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 Applicants to improve the lot as proposed. The Board is convinced that the shape and location of the structure is reasonable, which is confirmed when reviewing the survey provided by the Applicants. The Board also notes that the addition is needed because the Applicants are raising their grandchildren.
 - d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicants. The Property has unique conditions, as discussed above, and those conditions have limited the building envelope on the Property and have created an exceptional practical difficulty. Importantly, the Applicants did not place the structures on the neighboring lots so close to the shared property line. Likewise, the Applicants did not place the steps on the lot. The Applicants are unable to construct a reasonable addition and retain the steps due to the unique size of the Property and the construction on neighboring lands. The Board also notes that the Applicants relied on their builder only to later discover the encroachments.

- 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 Applicants seek to construct a reasonably sized addition and retain a set of steps on the lot. The Board was not convinced by the opposition that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. The opposition only presented general concerns but not substantial evidence that the variance would alter the essential character of the neighborhood. The Applicants, however, produced pictures of other lots which have encroaching structures in the neighborhood and a letter of support from the neighbor most affected by the variances. The Board notes that the steps only minimally encroach into the setback area and are likely unnoticeable without a survey. Furthermore, only the front portion of the sunroom encroaches into the setback and a bulk of the sunroom appears to comply with the setback requirement.
- f. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulation at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to place a reasonable addition and to retain the steps on the Property. The Board is convinced that the addition and steps are the minimum sized structures to afford reasonable use 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 were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, 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 Williamson
Chair

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

Date May 3, 2021