

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RUSSELL HOBBS & IRIS HOBBS

(Case No. 12539)

A public hearing was held after due notice on April 12, 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 front yard setback requirement for existing and proposed structures.

Findings of Fact

The Board found that the Applicants are requesting a variance of 0.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling, a variance of 1.6 feet from the thirty (30) feet front yard setback requirement for an existing porch, and a variance of 4.2 feet from the thirty (30) feet front yard setback requirement for a proposed porch and addition. This application pertains to certain real located on the east side of Keenwick Road within the Keenwick Subdivision (911 Address: 38153 Keenwick Road, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.09-75.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated August 13, 2020, a drawing of the proposed structures, pictures, letters in support of the Application, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received two letters in support of the Application and no correspondence in opposition the Application.
3. The Board found that Iris Hobbs was sworn in to give testimony about the Application.
4. The Board found that Ms. Hobbs testified that the Applicants purchased the Property 15 years ago and the house was built by a prior owner.
5. The Board found that Ms. Hobbs testified that the Applicants now realize that they need to make some improvements in order to age in place.
6. The Board found that Ms. Hobbs testified that the access to the mechanical room is on the outside of the house and access to the mechanical room has become impractical.
7. The Board found that Ms. Hobbs testified that an addition could be built to allow access from within the home but the addition would require a variance.
8. The Board found that Ms. Hobbs testified that, if the variances were granted, the front yard setback would still meet the requirements of the subdivision.
9. The Board found that Ms. Hobbs testified that the dwelling is currently set farther back than neighboring homes so this will make it more uniform with the other homes in the community.
10. The Board found that Ms. Hobbs testified that letters of support have been submitted by the adjacent neighbors and that approval was given by the HOA building committee.
11. The Board found that Ms. Hobbs testified that upgrades will give the dwelling more curb appeal and that this addition will make the home safer by having an additional egress in case of fire or other peril.

12. The Board found that Ms. Hobbs testified that the requested variances are the minimum variances to afford relief.
13. The Board found that Ms. Hobbs testified that they have consulted with builders and the addition will afford them access to the mechanical room from inside the home.
14. The Board found that Ms. Hobbs testified that the living space will not be expanded but the laundry room will be extended for the purpose of having interior access to the dwelling's mechanical room.
15. The Board found that Ms. Hobbs testified that the mechanicals cannot be relocated elsewhere on the lot.
16. The Board found that no one appeared in support of or in opposition to the Application.
17. 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 in size, shape, and development. The lot consists of only 4,956 square feet and is developed by a house, decks, and steps. The dwelling has a room for mechanical equipment which can only be accessed from outside the dwelling. The Applicants are aging and find the current access impractical. In order to provide safer access to the mechanical equipment, the Applicants propose to construct a small addition to the front of their home. The lot, however, is small and narrow and the rear of the Property is adjacent to a lagoon. The dwelling, which was built by a prior owner, also limits where the mechanical equipment can be located. These unique characteristics of this Property limit the buildable area available to the Applicants and have created an exceptional practical difficulty and unnecessary hardship for the Applicants who seek to retain the existing structures and to build a small addition to the front of the dwelling.
 - 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 a unique size, shape, and development and the buildable area thereof is limited due to these conditions. The Applicants seek to retain existing structures and to construct a small addition on the lot but are unable to do so without violating the Sussex County Zoning Code. The Board is convinced that front yard variances are necessary to enable the reasonable use of the Property as the variances will allow the Applicants to retain the existing structures and to build the small addition. The addition will provide a reasonable access to the mechanical equipment and the new access is necessary because the Applicants experience difficulty accessing the mechanical room as it is currently situated.
 - d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicants. The Applicants did not create the unusual conditions of the Property. The lot was developed by a prior owner and the Applicants did not acquire the Property until after the house was built. Furthermore, the shape and conditions of the Property predate the Applicant's ownership of the lot. The preexisting conditions have resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty and unnecessary hardship. The unique characteristics of the Property are clear when reviewing the survey. The development of the Property by a prior owner

also has limited where the addition can be placed because the mechanical equipment is already located on the site. The Board is convinced that the exceptional practical difficulty and unnecessary hardship were not created by the Applicants but was created by the lot's unique characteristics and the development thereof by a prior owner.


- 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 variances will have no effect on the character of the neighborhood. The variances will allow the Applicants to retain the existing structures on the lot and to construct a small addition. The existing structures have been on the Property for some time with no complaints noted in the record. The addition will meet the community's front yard setback requirement. Furthermore, neighbors and the homeowners association support the request. There was no evidence 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 Applicants have demonstrated that the variances sought will allow the Applicants retain the existing structures and to construct a small addition to afford them reasonable access to their mechanical equipment. The lack of interior access has presented them with challenges and they need the interior access for safety reasons. The Applicants also consulted with a builder to design the addition to minimize the need for a variance.
- 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 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 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 June 7, 2021