

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

**IN RE: GREC CO, LLC**

**(Case No. 12580)**

A hearing was held after due notice on July 12, 2021. The Board members present were: Dr. Kevin Carson, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for variances from the rear yard setback requirement for a proposed structure.

Findings of Fact

The Board found that the Applicant is requesting a variance of 4.7 feet from the twenty (20) feet rear yard setback requirement for a proposed screened porch. This application pertains to certain real property located on the south side of Annondell Drive within the Harts Landing Subdivision (911 Address: 20690 Annondell Drive, Lewes) said property being identified as Sussex County Tax Map Parcel Number 3-34-18.00-639.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, an aerial photograph of the Property, a letter from William Greco, an undated site plan of the Property, a site plan dated January 21, 2010, drawings of the proposed porch, and approval from the Harts Landing Homeowners Association Architectural Review Board.
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 William Greco, who is the owner of Grec Co, LLC, was sworn in to testify about the Application.
4. The Board found that Mr. Greco testified that the relief being sought is for a screened enclosure over the existing concrete patio. He noted that the porch will project no farther into the rear yard than the existing patio and the porch will be attached to the house.
5. The Board found that Mr. Greco testified that the shape of the rear yard is irregular creating a unique situation and the 20 foot rear yard setback requirement catches the northwest corner of the patio.
6. The Board found that Mr. Greco testified that the flat surface of the patio is conforming but enclosing it would create non-conformity.
7. The Board found that Mr. Greco testified that the porch is necessary for the enjoyment of the Property because, during the day, there are greenflies and, in the evening, there are mosquitoes due to the proximity of the Property to the wetlands. He believes that the bugs make it difficult to enjoy the rear yard.
8. The Board found that Mr. Greco testified that there is an area of trees to the rear of the Property so this variance will not impact any neighbors.
9. The Board found that Mr. Greco testified that the road to the rear was never built and he doubts the cul-de-sac will be finished because other lots have access from Love Creek Lane. He noted that Love Creek Lane has been cleared enough to give neighboring properties access.
10. The Board found that Mr. Greco testified that there are no steps off the patio.
11. The Board found that Mr. Greco testified that there are no complaints from neighbors and that the proposal has been approved by the homeowners association.

12. The Board found that Mr. Greco testified that the porch cannot be placed on the side of the house as there would be no access to the house and he doubts the homeowners association would approve a porch in the side yard anyway.
13. The Board found that Mr. Greco testified that the area of encroachment is approximately 25 square feet.
14. The Board found that no one appeared in support of or in opposition to the Application.
15. 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 due to its shape and development. The Property has a curved front yard and rear yard which thereby creates an oddly shaped building envelope. The rear property line has a steep curve as well. The Property was improved by a house and patio but the patio is largely unusable due to bug problems from nearby wetlands. The Applicant seeks to enclose the patio but cannot do so in compliance with the Code. The Board finds that the Property has unique conditions as aforesaid and that these conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to construct a porch on the lot.
  - 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 situation and the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to construct a porch but is unable to do while complying with the Sussex County Zoning Code. The Board is thus convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow the Applicant to construct the porch. The Board is convinced that the size, shape, and location of the porch are reasonable. The Board notes that the rear of the lot has a severe curve and is adjacent to a street which is only partially constructed. The rear of the lot is also largely unusable due to bugs so the porch is needed for the Applicant to reasonably use that portion of the lot.
  - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. As discussed above, the Property has unique conditions which have limited the Applicant's ability to reasonably develop the Property. The Applicant did not create the unique conditions of the lot. The Board was convinced that the Applicant has not created the exceptional practical difficulty and unnecessary hardship. Furthermore, the Board is convinced that the Applicant did not come to the Property with an illegal use in mind. Rather, the Applicant is limited by the physical conditions of the Property and need the variance in order to reasonably use the rear portion of 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 proposed porch will have no effect on the character of the neighborhood. The rear of the Property is near an unbuilt cul-de-sac and woods and the cul-de-sac is unlikely to be further developed. The Applicant has received approval from its homeowners association and no complaints about the project were noted in the record. Moreover, the porch will not project farther into the rear yard than the existing patio. There was no

evidence that the porch would alter the character of the neighborhood and the Board heard no substantial evidence 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 construct a reasonable porch on the lot. The porch will be located over an existing patio and will be no larger than the patio. The porch will have no steps that otherwise project into the setback area. The Board also notes that only 25 square feet of the porch will encroach into the setback area.
- 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. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. 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



John Williamson  
Chair

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

Date September 10, 2021