

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHARLES MUNDELL & PAULA MUNDELL

(Case No. 12608)

A hearing was held after due notice on September 20, 2021. The Board members present were: Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for variances from the separation distance setback requirement for a proposed structure.

Findings of Fact

The Board found that the Applicants are requesting a variance of 8.2 feet from the twenty (20) feet separation requirement between units for a proposed porch. The variance is for the separation distance requirement from the porch on the Property to the dwelling on the adjacent Lot 71. The Property is located on the southeast side of Sea Air Avenue within the Sea Air Village Manufactured Home Park (911 Address: 19913 Sea Air Avenue, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number: 3-34-13.00-310.00-21298. 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 April 19, 2018, an administrative corrective process application, a certificate of compliance, 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 three letters in support of and no correspondence in opposition to the Application.
3. The Board found that Charles Mundell was sworn in to testify about the Application.
4. The Board found that Mr. Mundell testified that he proposes to build a screened in porch on an existing concrete slab which was placed on the Property by the previous owner. The slab was previously used as a patio and for parking.
5. The Board found that Mr. Mundell testified that he would like to enjoy the outdoors but has a medical condition which prevents him from being outdoors without screening from mosquitos and that he has suffered from malaria in the past.
6. The Board found that Mr. Mundell testified that there are other established screened in porches in the neighborhood and the porch will fit within the neighborhood.
7. The Board found that Mr. Mundell testified that letters of support from neighbors have been submitted and that Sea Air management has approved the proposed porch.
8. The Board found that Mr. Mundell testified that the porch will measure 12 feet by 20 feet and the slab measures 12 feet by 24 feet.
9. The Board found that Mr. Mundell testified that the porch will be ground level and he will use the existing steps to access the house.
10. The Board found that Mr. Mundell testified that, if the variance is approved, it will not affect the parking.
11. The Board found that no one appeared in support of or in opposition to the Application.
12. 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 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 narrow lot measuring only 39.88 feet wide. The Property is also unique because it is located in a manufactured home park and is constrained by separation distance requirements which limit the placement of structures on the lot based upon the location of structures on neighboring properties. In this case, the dwelling on the adjacent Lot 71 is only 11.8 feet away from the Applicants' existing patio. The effect of the placement of these structures combined with the already narrow shape of the lot have led to an exceptionally small building envelope. These conditions have created an exceptional practical difficulty and unnecessary hardship for the Applicants who seek to construct a porch on the Property but cannot do so in compliance with the Sussex County Zoning Code. The situation is unique because neighboring homes have been placed on other lots and the Applicants have no control over the placement of those homes and structures. Moreover, Mr. Mundell suffers from mosquito-related medical problems which necessitate that he remain inside.
- b. Due to the uniqueness of the Property and the placement of the manufactured home on a neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants propose to construct a porch but are unable to do so without violating the separation distance requirements between structures in a mobile home park requirement. The variance is thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the porch are also reasonable (which is confirmed when reviewing the survey). The Board also notes that the Property has bug problems and the porch is necessary to afford the Applicants with reasonably outdoor space. This need is particularly heightened since Mr. Mundell has mosquito-related health problems.
- c. The exceptional practical difficulty and unnecessary hardship were not created by the Applicants. The Applicants did not create the size of the lot or place the house on the neighboring property thereby restricting the building envelope on the Property. This building envelope is further limited due to the narrowness the lot. The unique conditions of the Property and the development of the adjacent lot have created an exceptional practical difficulty for the Applicants who seek to construct a porch. The Board also notes that the Applicants requires the porch due to the Applicant's medical condition.
- d. 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 the porch will not have a negative impact on the neighborhood. The porch will be located in a similar location to an existing patio so the use should be similar. The Board notes that no complaints were noted in the record about the proposed porch and no evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, the Board received documentation that the neighbors and landlord support the Application.
- e. 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 Applicants have demonstrated that the variance sought will allow the Applicants to construct a reasonably sized porch on the lot. The porch will provide the Applicants with reasonable outdoor space and is smaller than the existing patio.

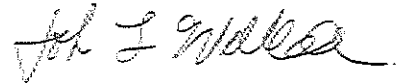
- f. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

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 Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to approve the variance application. Dr. Kevin Carson and Mr. Jeffrey Chorman did not participate in the discussion or vote of 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 November 15, 2021