

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DEENA A. DOREY

(Case No. 12631)

A hearing was held after due notice of December 13, 2021. The Board members present were: Chairman John Williamson, Dr. Kevin Carson, and Mr. Jeff Chorman.

Nature of the Proceedings

This application is for a Variance from side yard setbacks for an existing structure (Sections 115-25, 115-183. and 115-185 of the Sussex County Zoning Ordinance).

Findings of Fact

The Board found that the Applicant is seeking a variance from the side yard setbacks on a parcel of land zoned AR-1 Agricultural Residential. The property is identified as Sussex County Tax Map and Parcel Number 1-33 200.00-74.02, with a 911 address of 23745 Indian Town Road, Millsboro, Delaware.

After the hearing, the Board made the following finding of fact:

1. The Board was given copies of the Application, a survey of the property, and a portion of the tax map of the area.
2. Ms. Norwood, of Sussex County, described the case and stated that the Office of Planning and Zoning has received no letters in support of, or in opposition to, the Application.
3. The Board found that Deena A. Dorey was sworn in and testified that she is seeking a variance from the side yard setbacks.
4. The Board found that Deena A. Dorey testified that she is seeking a variance of 9.14 and 9.71 feet from the 15-foot side yard setback for an existing detached structure.
5. The Board found that Deena A. Dorey testified that a contractor located the structure in incorrect spot and that is now fully constructed.
6. The Board found that Deena A. Dorey testified that the structure is a pole building intended to be used for boat storage.
7. The Board found that Deena A. Dorey testified that the pole building is located in such a position to avoid an existing septic system on the property.
8. The Board found that Deena A. Dorey testified that she learned of the existing encroachment after the pole building was constructed.
9. The Board found that Deena A. Dorey testified that other pole building exists in the area, so this one will not alter the essential character of the neighborhood.
10. The Board found that Deena A. Dorey testified that the need for the variance and the exceptional practical difficulty was not created by her.
11. The Board found that Deena A. Dorey testified that the variance for the existing structure will not alter the character of the neighborhood.
12. The Board found that Deena A. Dorey testified that there are no complaints from the neighbors.
13. The Board found that Deena A. Dorey testified that the property is unique due to the existence and location of the septic system.
14. The Board found that removal or relocation of the structure would be extremely difficult. Moving the pole building outweighs any harms caused by the encroachment.
15. The Board found that the structure will not alter the essential character of the neighborhood.
16. The Board found that no parties appeared in opposition to the Application.
17. Based on the findings above and the testimony and evidence presented during the Public Hearing and contained in the Public Record, the Board determined that the

Variance from the side yard setback should be granted. The findings below further support the Board's decision to grant the Variance Application:

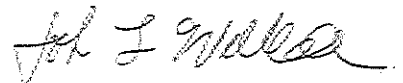
- a. The proposed variance is for an existing structure, a pole building, on the premises. While the structure was improperly located by the Applicant's contractor, the Applicant had no knowledge of this mistake.
- b. The lot has an existing septic system upon it, making placement of this structure difficult.
- c. Due to the unique physical conditions, the property cannot be developed in strict conformity with the Sussex County Zoning Code.
- d. The variance is necessary to enable the reasonable use of the Property and will allow the structure to remain upon the property in its current location.
- e. The exceptional practical difficulty was not created by the Applicant.
- f. The variance is the minimum necessary to afford relief and it represents the least modifications possible of the regulations at issue. It simply allows the current pole building to remain in its present location.

Based on the foregoing, the Board approved the variance from the side yard setback pursuant to Section 115-25, 115-183, and 115-185 of the Sussex County Zoning Code, but with the requirement that staff send a letter to the Applicant's contractor providing information about the City's setbacks and zoning regulations.

Decision of the Board

Upon motion duly made and seconded, the variances from the side yard setback pursuant to Section 115-25, 115-183, and 115-185 of the Sussex County Zoning Code was approved. The Board Members in favor of the approval were Mr. Williamson, Dr. Carson, and Mr. Chorman.

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 February 1, 2022