

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

**IN RE: JASON SATTERFIELD**

**(Case No. 12647)**

A hearing was held after due notice on February 7, 2022. The Board members present were: Dr. Kevin Carson, Mr. John T. Hastings, and Mr. Jordan Warfel.

Nature of the Proceedings

This is an application for variances from the side yard and rear yard setback requirements for an existing structure.

Findings of Fact

The Board found that the Applicant is requesting the following variances:

1. A variance of 4.1 feet from the five (5) feet rear yard setback requirement for an existing shed
2. A variance of 4.7 feet from the five (5) feet rear yard setback requirement for an existing shed;
3. A variance of 2.8 feet variance of the five (5) feet side yard setback requirement on the southwest side for an existing shed.

This application pertains to certain real property located at the northeast side of Shawnee Drive within the Blackwater Village Subdivision (911 Address: 34060 Shawnee Drive, Dagsboro) said property being identified as Sussex County Tax Map Parcel Number 134-11.00-301.00 ("the Property"). 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 survey of the Property dated November 19, 2020, a letter from the Applicant, a construction plan dated March 5, 2021, an inspection report, photographs, builder estimates, letters of support, a disposal bed plan, and a notice of violation.
2. The Board found that the Office of Planning & Zoning received five (5) letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Jason Satterfield was sworn in to testify about the Application.
4. The Board found that Mr. Satterfield testified that the Property has been very difficult to build on due to the proximity to the Black Water Creek which connects to the Indian River Bay.
5. The Board found that Mr. Satterfield testified that the Property is located close to a marsh and a majority of the front of the Property is in a flood zone.
6. The Board found that Mr. Satterfield testified that the ordinary high water line forced the septic system to be located in the front right corner with a long drain field to accommodate the narrowness of the available area.
7. The Board found that Mr. Satterfield testified that his house was forced to the back 10 feet and that he has a variance for his well also.
8. The Board found that Mr. Satterfield testified that he has almost no backyard due to all the constraints and that he was told that the lot was unbuildable.
9. The Board found that Mr. Satterfield testified that, due to the design of the shed, if it was relocated it would cause everyday tasks to increase in difficulty and make one door unusable.
10. The Board found that Mr. Satterfield testified that the shed measures 10 feet by 14 feet and has 2 double doors on the left side and a single door on the front side.



11. The Board found that Mr. Satterfield testified that, if the shed was relocated, the single door would be unusable and he would not be able to get larger equipment, such as a lawn mower and kayak in and out of the shed.
12. The Board found that Mr. Satterfield testified that the shed cannot be rotated because the shed would be inaccessible.
13. The Board found that Mr. Satterfield testified that retaining the shed in the existing location would keep the shed usable and would help with the aesthetics. He noted that he has looked into alternative shed locations and the cost for moving it but it would be less functional.
14. The Board found that Mr. Satterfield testified that he was not there when the shed was delivered and it was part of the contract with the builder. He noted that the builder was responsible for purchasing and installing the shed and that the builder did not obtain a permit and made a lot of mistakes.
15. The Board found that Mr. Satterfield testified that the neighborhood is full of sheds of various sizes and shapes and that most properties in the community have sheds.
16. The Board found that Mr. Satterfield testified that the shed matches the design and color scheme of their home.
17. The Board found that Mr. Satterfield testified that the 3 neighboring properties have signed letters of approval and that the homeowners association has also approved this application for variances.
18. The Board found that Gary Hornbacher was sworn in to give testimony in support of this application.
19. The Board found that Mr. Hornbacher testified that the homeowners association has had issues in the past with sheds and ancillary buildings in the community due to small lot size, being a wooded community, and having septic fields. He noted that the neighborhood has been approved for County Sewer and is pending federal approval but that the sewer system may take 2-3 years to be completed. He believes that the sewer should help the neighborhood.
20. The Board found that seven (7) people appeared in support of and no one appeared in opposition to the Application.
21. 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 size, flood zone classification, and septic system. The lot consists of 10,800 square feet, which is not a small lot under the small lot ordinance but a significant part of the front yard is considered a flood zone thereby limiting the area where a home, shed, and septic system can be placed. As a result, the structures are placed towards the rear of the lot. The Property is also improved by a septic system, which further limits the building envelope of the Property. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to retain the existing shed on the site.
  - 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 unique physical characteristics and the buildable area thereof is limited due to those characteristics. The Applicant seeks to retain an existing shed on the lot but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow this reasonably sized shed to remain on the lot. The Board is convinced that the shape and



location of the structure is also reasonable, which is confirmed when reviewing the survey provided by the Applicant. The Board notes that the shed cannot be moved into compliance with the Code while maintaining functionality as doors would not be able to be fully opened if it was moved into compliance with the Code.

- d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. As previously stated, the Property has unique conditions and these conditions have resulted in a limited building envelope on the Property. These conditions have created the unnecessary hardship and exceptional practical difficulty. Furthermore, the Applicant relied on his builder to place the shed in compliance with the Code only to find out later about 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 Board is convinced that the shed will have no effect on the character of the neighborhood. The shed allows the Applicant to store his mower and kayak in a sheltered environment and the shed was designed to match the house so the aesthetics of the shed should not be a detriment to the neighborhood. The testimony reflects that lots in the neighborhood have similar sheds and that neighbors and the homeowners association support the request. No evidence was presented which demonstrates that the variances would somehow alter the essential character of the neighborhood.
- 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 Applicant has demonstrated that the variances sought will allow the Applicant to retain a reasonably sized shed on the Property. No additions or modifications to the shed are proposed. The shed also cannot be moved to minimize the need for variances without affecting the usability of the shed.
- 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, and Mr. Jordan Warfel. No Board Member voted against the Motion to approve the variance application. Mr. Jeffrey Chorman and Mr. John Williamson 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 April 4, 2022