

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

**IN RE: MARGARET PARKER**

**(Case No. 12667)**

A hearing was held after due notice on March 7, 2022. The Board members present were: Dr. Kevin Carson, Mr. Travis 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 proposed structures.

Findings of Fact

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

1. A variance of 9.8 feet from the fifteen (15) feet rear yard setback requirement for proposed steps;
2. A variance of 11.4 feet from the fifteen (15) feet rear yard setback requirement for a proposed HVAC unit; and
3. A variance of 12.5 feet from the fifteen (15) feet rear yard setback requirement for a proposed manufactured home

This application pertains to certain real property located on the east side of Polly Branch Road approximately 339 feet northeast of Lighthouse Road (Route 54) (911 Address: 31621 Polly Branch Road, Selbyville) said property being identified as Sussex County Tax Map Parcel 533-17.00-89.00 ("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 concept plan dated January 14, 2022, schematics of the proposed dwelling, and a survey of the Property dated January 14, 2022.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of and no correspondence in opposition to the Application.
3. The Board found that James Jones and Yvonne Jones were sworn in to testify about the Application. Mr. Jones is the grandson of the Applicant.
4. The Board found that Mr. Jones testified that his grandmother has owned the Property since 1968.
5. The Board found that Mr. Jones testified that the current home is unlivable and needs to be replaced. Ms. Jones agrees.
6. The Board found that Mr. Jones testified that the neighbors all have modern homes and they do not want his grandmother's property to be an eyesore. He noted that all neighbors support this request for a new mobile home.
7. The Board found that Mr. Jones testified that the proposed home will be in the same location as the prior home.
8. The Board found that Mr. Jones testified that he has removed the trees in the front yard of the Property.
9. The Board found that Mr. Jones testified that the front steps will be turned but the rear steps will not be turned due safety issues.
10. The Board found that Ms. Jones testified that Ms. Parker's son passed away and he was helping her maintain the Property prior to his death and that Ms. Parker cannot maintain the Property since she is 94 years old.
11. The Board found that Ms. Jones testified that the situation is now a hardship.

12. The Board found that Ms. Jones testified that the new mobile home will measure 16 feet by 76 feet and the existing home measures 14 feet by 70 feet.
13. The Board found that Ms. Jones testified that there are few mobile homes available and affordable and the home they intend to place has been on hold for them since November.
14. The Board found that Ms. Jones testified that they intend to return Ms. Parker back to her normal life once the new mobile home is placed.
15. The Board found that Ms. Jones testified that they have looked into numerous other options but they are not feasible.
16. The Board found that Ms. Jones testified that, due to Ms. Parker's mobility issues, this size mobile home is necessary to prevent falls.
17. The Board found that Ms. Jones testified that the home will be placed in the same footprint except for the additional square footage.
18. The Board found that Ms. Jones testified that the lot is unique and another manufactured home cannot be placed on the lot.
19. The Board found that Ms. Jones testified that the Property has previously had 3 other manufactured homes.
20. The Board found that no one appeared in support of or 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 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 oddly shaped and narrow. The lot's unique conditions limit the buildable area available to the Applicant and have created an unnecessary hardship and an exceptional practical difficulty for the Applicant who seeks to place a new manufactured home and related structures on the lot. The existing manufactured home is unlivable and needs to be replaced so that the Applicant, who is elderly, can safely live at home.
  - 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 shape and the buildable area thereof is limited due to the size and shape of the lot. The Applicant seeks to place new manufactured home and related structures on the lot but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow the reasonably sized manufactured home and related structures to be placed on the Property. The Board is convinced that the shape and location of the structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicant.
  - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. The Applicant did not create the unusual shape or size of the Property. The unique size and shape of the Property is clear when reviewing the survey and testimony. The Board is convinced that the unnecessary hardship and exceptional practical difficulty were not created by the Applicant but was created by the lot's unique characteristics.
  - 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 structures will have no effect on the character of the



neighborhood. The Property has been improved by a manufactured home for many years and the existing home has fallen into disrepair. The Applicant proposes to replace the home with a newer model and the new home should improve the aesthetics of the Property. There was no evidence that structures would somehow affect the neighborhood and no evidence was presented 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 Applicant has demonstrated that the variances sought will allow the Applicant to place a reasonably sized manufactured home with related structures on the Property. The home will be similar in size and location as a prior manufactured home. The Board also notes that the Applicant has turned steps in the front of the house to minimize the need for variances. The Board was also convinced that the Applicant explored other options for the home but was limited by the availability of homes and the conditions of the lot.
- 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 May 2, 2022