

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GEORGE JEFFERSON, JR.

(Case No. 12674)

A hearing was held after due notice on April 4, 2022. The Board members present were: Mr. John Williamson, Dr. Kevin Carson, Mr. Jeff Chorman, Mr. Jordan Warfel, and Mr. John T. Hastings.

Nature of the Proceedings

This is an application for variances from the front yard setback requirements for a proposed shed.

Findings of Fact

The Board found that the Applicant is requesting the following variance: a variance of twenty (20) feet from the forty (40) foot rear yard setback requirement along Route 18, Cannon Road. This application pertains to certain real property located on the north side of Overbrook Court and the south side of Cannon Road within the Clearbrooke Estates Subdivision (911 address: 4 Overbrook Court, Seaford) said property being identified as Sussex County Tax Map Parcel Number 3-31-1.00-145.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the County's "Setback Information Request" form, the Application, a portion of the tax map of the area, several surveys of the Property, and an Invoice for the proposed shed.
2. The Board found that the Office of Planning and Zoning received no letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that George Jefferson Jr. was sworn in to testify about the Application.
4. The Board found that Mr. Jefferson testified that he owns a double-frontage lot (having frontage upon Overbrook Court and Route 18/Cannon Road), and that he would like to construct a shed in the rear of his home along Cannon Road, which is technically a front yard with a forty (40) foot setback.
5. The Board found that Mr. Jefferson intends to construct his proposed shed twenty (20) feet from the boundary of his property and Cannon Road.
6. The Board found that Mr. Jefferson testified that there are Leyland Cypress trees that will partially block the shed from view along Cannon Road.
7. The Board found that Mr. Jefferson testified that there are similar sheds in the neighborhood.
8. The Board found that Mr. Jefferson testified that HOA has approved the proposed shed.
9. The Board found that Mr. Jefferson testified that the Property is developed by a house served by well and septic.
10. The Board found that Mr. Jefferson testified that the adjacent neighbors do not oppose of the Application.
11. The Board found that Mr. Jefferson testified that the variances requested are the minimum variances to allow the construction of the proposed shed.

12. The Board found that no one appeared in support of or in opposition to the Application.

13. 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 lot has a double-frontage, which causes a very large (40 foot) setback along Cannon Road. Although visually the rear yard of the house and property, this area has a large front yard setback imposed upon it which makes the requested use and development of this yard area difficult. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to construct a shed behind his home.

b. 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 construct a 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 be built in a reasonable location in the yard of 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.

c. 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.

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 will it be detrimental to the public welfare. The Board is convinced that the shed will have no effect on the character of the neighborhood. There are other similar sheds within the neighborhood, and this one will still be twenty (20) feet from the property boundary and even farther from the edge of pavement of Cannon Road. Due to the double frontage of the lot, it is unlikely that the encroachment would be noticed otherwise. No evidence was presented which demonstrates that the variance would somehow alter the essential character of the neighborhood.

e. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variance sought will allow the Applicant to build a reasonably sized and appropriately located shed on the Property.

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. John Williamson, Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Jordan Warfel, and Mr. John T. Hastings. No Board Member voted against the Motion to approve the variance 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 June 6, 2022.