

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SEA AIR VILLAGE

(Case No. 12695)

A hearing was held after due notice on May 16, 2022. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, 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 requirements for proposed structures.

Findings of Fact

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

1. A variance of 1.8 feet from the twenty (20) feet separation distance requirement for a proposed manufactured home on Lot 55 from an existing shed on Lot 52; and
2. A variance of 1.4 feet from the ten (10) feet separation distance requirement for a proposed shed on Lot 55 from an existing shed on Lot 52.

This application pertains to certain real property located on the corner of Center Avenue and Skyview Street within the Sea Air Village Manufactured Home Park (911 Address: 19909 Center Avenue, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number: 334-13.00-310.00-3377. 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 August 9, 2021, a manufactured home information sheet, a set pier beam spacing sheet, 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 no correspondence in support of or in opposition to the Application.
3. The Board found that Karen Lashua was sworn in to testify about the Application.
4. The Board found that Ms. Lashua testified that the Applicant seeks to place a new home and shed on the lot but is unable to do so due to the location of a shed on Lot 52 that extends over the property line. The proposed home will measure 28 feet wide by 60 feet deep.
5. The Board notes that structures in Sea Air Village were deemed non-conforming in 2007.
6. The Board found that Ms. Lashua testified that the uniqueness of the northwest front side of the Property creates a challenge placing the manufactured home as it truncates the lot causing the home to be placed farther back
7. The Board found that Ms. Lashua testified that the northeast front side of the home must allow room for the stairs into the dwelling and parking.
8. The Board found that Ms. Lashua testified that the only placement for shed placement is at the rear of the home.
9. The Board found that Ms. Lashua testified that, in both instances, minimum separation is unable to be achieved because a neighbor's shed sits over the lot line.
10. The Board found that Ms. Lashua testified that the Property is unique as it is shaped at an angle and surrounding lots are uniquely narrow.

11. The Board found that Ms. Lashua testified that the lot was laid out with others in the community in the 1930s and 1940s and the lots are small in comparison with the size of modern size manufactured homes and this lot has a peculiar front / street facing angle.
12. The Board found that Ms. Lashua testified that the homeowner has selected a home of normal size and length based on what is currently available on the market but they are still unable to be placed on the lot within the required setbacks.
13. The Board found that Ms. Lashua testified that the irregular shape makes it difficult to place a new manufactured home on the Property consistent with others in the neighborhood and still maintain compliance with the Sussex County Zoning Code.
14. The Board found that Ms. Lashua testified that, due to the uniqueness of the Property, the Property cannot be developed in strict conformity with Code.
15. The Board found that Ms. Lashua testified that the proposal is to place a normal and standard sized shed that is consistent with other sheds in the community but the Applicant is unable to do so without violating the separation distance requirements between the shed and neighboring shed which sits on the lot line.
16. The Board found that Ms. Lashua testified that, due to the uniqueness of the property and physical circumstances of how neighboring lots have been developed, there is no other placement within the lot that will allow this standard sized manufactured home to be placed without a separation distance variance and that both variances are required to enable the reasonable use of the Property.
17. The Board found that Ms. Lashua testified that the need for storage is great.
18. The Board found that Ms. Lashua testified that the variances have been requested to keep uniformity with the site and the home in the community.
19. The Board found that Ms. Lashua testified that the exceptional practical difficulty was not created by the Applicant because the Property has a unique shape and the adjoining properties are uniquely narrow causing development of adjacent structures to be nearer to lot lines, limiting the buildable area thereof.
20. The Board found that Ms. Lashua testified that it appears impossible for a home to be placed on the property without violating the separation distance requirements.
21. The Board found that Ms. Lashua testified that the exceptional practical difficulty was created by the unique conditions of the Property and the development of adjacent lots.
22. The Board found that Ms. Lashua testified that the variances will not alter the essential character of the neighborhood nor will the substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare thereof. She noted that the replacement of new structures in place of prior older structures offers and improvement to the surrounding homes and community.
23. The Board found that Ms. Lashua testified that the variances requested are the minimum variances necessary to afford relief and the least modifications possible for the placement of shed and home on the Property.
24. The Board found that Ms. Lashua testified that the lot in question is vacant at the moment.
25. The Board found that Ms. Lashua testified that it is her understanding that there is no other way to place these structures on the lot.
26. The Board found that Ms. Lashua testified that, if the shed on the adjoining lot was placed correctly, they would likely not have needed a variance for this lot.
27. The Board found that Ms. Lashua testified that she does not foresee a domino effect by granting this variance but that each lot would be evaluated for need of a variance should it be needed.
28. The Board found that no one appeared in support of or in opposition to the Application.

29. 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 as it is oddly shaped and small lot with frontage on 2 roads. The lot is also adjacent to a lot which is improved by a shed that extends over the shared property line. The lot is required to meet separation distance requirements for structures within the park but the Applicant is unable to place a reasonably sized home and shed on the lot while meeting all setback requirements. The effect of the placement of the shed on the adjacent lot combined with the already odd 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 Applicant who seeks to place a dwelling and shed 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 Applicant has no control over the placement of those homes and structures.
 - b. Due to the uniqueness of the Property and the placement of the shed on a neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant proposes to place a dwelling and shed on the lot but is unable to do so without violating the separation distance requirements between structures in a mobile home park requirement. The variances are thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the shed and dwelling are also reasonable (which is confirmed when reviewing the survey).
 - c. The exceptional practical difficulty and unnecessary hardship were not created by the Applicant. The Applicant did not create the size of the lot or place the shed on the neighboring property thereby restricting the building envelope on the Property. This building envelope is further limited due to the odd shape of 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.
 - d. 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 and dwelling will not have a negative impact on the neighborhood. The Board notes that no complaints were noted in the record about the proposed dwelling and shed and no evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
 - e. 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 Applicants have demonstrated that the variances sought will allow the Applicants to construct a reasonably sized dwelling and shed on the lot. The Board notes that the shed is needed for storage and that the dwelling is a reasonably sized manufactured home.
 - 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 Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. 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 July 18, 2022