

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BRUCE SENTMAN, JR.

(Case No. 12699)

A hearing was held after due notice on June 6, 2022. The Board members present were: 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 rear yard setback requirement for a proposed structure.

Findings of Fact

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

1. A variance of 10.6 feet from the twenty (20) feet rear yard setback requirement for a proposed garage addition; and
2. A variance of 12.3 feet from the twenty (20) feet rear yard setback requirement for a proposed garage addition.

This application pertains to certain real property on the southeast side of Sheep Pen Road approximately 135 feet from Godwin School Road (911 Address: 24230 Sheep Pen Road, Millsboro) said property being identified as Sussex County Tax Map Parcel 133-16.00-73.03 ("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 proposed survey plan for the Property, a survey of the Property dated January 2, 2014, and a letter of support.
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 Bruce Sentman was sworn in to testify about the Application.
4. The Board found that Mr. Sentman testified that he is seeking a variance for an addition to his shop. He operates a lawn repair business on the Property subject to a conditional use and the addition will be used for that business.
5. The Board found that Mr. Sentman testified that adding on to the rear of his shop is the only option due to the placement of his well and septic systems.
6. The Board found that Mr. Sentman testified that the shop is existing and was placed there due to the location of the drain field and need to have the ability to back a trailer into the garage. He noted that there is a need to have room to turn around for his vehicles on the lot.
7. The Board found that Mr. Sentman testified that the addition to the rear of the garage will not be visible from the road nor change anything within the neighborhood.
8. The Board found that Mr. Sentman testified that the neighbor to the rear of the Property supports the Application. He noted that the property to the rear of the lot is used as a horse pasture. He has not spoken with other neighbors about the request.
9. The Board found that Mr. Sentman testified that DeIDOT mandated his driveway entrance and that the driveway could only be to one side of the Property and that location limited where the building could be located.
10. The Board found that Mr. Sentman testified that his drain field is located by his pool

in the open area and the south side of the Property is low lying and holds water after storms.

11. The Board found that Mr. Sentman testified that there is a row of trees lining his side yard.
12. The Board found that Mr. Sentman testified that the conditional use for his lawn mower repair business requires him to keep all materials stored inside and the addition is to add additional storage for that business. He noted that lawn mowers will be stored in the addition.
13. The Board found that Mr. Sentman testified that he obtained the conditional use in 2014 and has not had any violations of that conditional use. He also stated that the variance will not contradict any conditions from that conditional use.
14. The Board found that Mr. Sentman testified that he has a shed in the other corner of the Property but, if he added to the other building, the addition to the building would block his access to this garage.
15. The Board found that Mr. Sentman testified that the rear corner of the lot is inaccessible with a vehicle.
16. The Board found that Mr. Sentman testified that the proposed location of the addition will afford him with access to the addition.
17. The Board found that one person appeared in support of and no one appeared in opposition to the Application.
18. 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 for the variances met the standards for granting a variance. The findings below further support the Board's decision to approve the Application for the variances.
 - a. The Property is unique as it is a long lot that narrows towards the rear yard and is subject to low-lying areas that limit the developable area of the lot. The Property is also serviced by a septic system that has a drain field in the area near the driveway thereby further limiting where improvements can be located. The driveway was placed on the lot due to DeIDOT requirements and the Applicant was limited in how the Property could otherwise be developed. These conditions have created a limited building envelope and the Board finds that the lot's unique conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seek to construct a reasonably sized garage addition on the lot.
 - 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 and limited buildable area. The Applicant seeks to construct a reasonable addition to the garage 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 a reasonably sized garage addition to be constructed on the Property. The Board is convinced that the shape and location of the addition are also reasonable, which is confirmed when reviewing the survey provided by the Applicant. The garage addition will allow the Applicant to store his lawn mowers on the Property in conformity with the requirements of the Applicant's conditional use for the lawn mower business. The Applicant was constrained as to where the addition could be located due to the unique conditions of the lot and the need to have room on the Property to turn around a trailer to tow those mowers.
 - 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. The Board also notes that, due to the unique conditions of the lot, there appears no other place where the garage addition can be located that would serve its intended purpose.

- 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 garage addition will have no effect on the character of the neighborhood. The garage addition will be closer to the rear property line than the existing garage but the neighbor to the rear has indicated his support of the Application. The addition will allow the Applicant to store his lawn mowing equipment inside the structure and should help hide some of the operations of the lawn mower business from neighbors. The Board notes that there was no evidence submitted into the record that the garage addition will somehow alter the essential character of the neighborhood. The Board also notes that the rear of the lot is adjacent to a horse pasture.
- f. The variances are the minimum variances necessary to afford relief and the variances represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances will allow the Applicant to place the reasonably sized garage addition on the Property. The Board is convinced that the Applicant explored other options for the size, shape, and location of the garage addition but was constrained by the conditions of the lot and the need to have access to the garage addition.
- 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 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. Dr. Kevin Carson did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Jeffrey Chorman
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date August 1, 2022