

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SEA AIR VILLAGE

(Case No. 12710)

A hearing was held after due notice on July 11, 2022. The Board members present were: Dr. Kevin Carson, 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 2.7 feet from the twenty (20) feet separation requirement for the proposed manufactured home to the existing HVAC unit on Lot A-30;
2. A variance of 6.7 feet from the twenty (20) feet separation requirement for the proposed landing to the existing HVAC unit on Lot A-30;
3. A variance of 2.6 feet from the twenty (20) feet separation requirement for proposed landing to the existing dwelling on Lot A-30;
4. A variance of 7.8 feet from the twenty (20) feet separation requirement for the proposed landing to the existing shed on Lot A-30;
5. A variance of 3 feet from the ten (10) feet separation requirement for proposed shed to the existing shed on Lot A-30;
6. A variance of 3.6 feet from the ten (10) feet separation requirement for the proposed manufactured home to the existing shed on Lot A-26;
7. A variance of 6.8 feet from the twenty (20) feet separation requirement for the proposed HVAC to the existing deck on Lot A-26; and
8. A variance of 7.5 feet from the twenty (20) feet separation requirement for the proposed manufactured home to the existing landing on Lot A-26.

This application pertains to certain real property located on the northwest side of Sea Air Avenue, Lot A28, within the Sea Air Village Manufactured Home Park (911 Address: 19820 Sea Air Avenue, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number: 334-13.00-310.00-3354 ("the Property"). After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a memorandum from the Office of Planning & Zoning dated June 30, 2022, a memorandum from the David Baker dated May 30, 2007, a letter from Lawrence Lank dated November 2, 2007, an aerial map for Sea Air Village dated July 1, 2007, a memorandum from the Office of Planning & Zoning dated June 9, 2022, a site plan dated April 7, 2022, a manufactured home installer 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 Aimee Bennett was sworn in to testify about the Application.
4. The Board found that Ms. Bennett testified that the uniquely narrow dimensions of this lot create a challenge placing the manufactured home and maintaining minimum separation between homes and accessory structures.

5. The Board found that Ms. Bennett testified that this lot was laid out with others in the community in the 1960s and that the lot sizes are small in comparison with the size of the modern manufactured home.
6. The Board found that Ms. Bennett testified that she has selected a standard size floorplan for this home that is comparable to the other new homes in the community but she is still unable to place it on the lot within the required setbacks.
7. The Board found that Ms. Bennett testified that the narrow shape of the lot makes it difficult to place a new manufactured home on the Property consistent with others in the neighborhood while being in compliance with Sussex County Zoning Code.
8. The Board found that Ms. Bennett testified that she proposes to place a normal width sized manufactured home that is consistent with other new homes in the community but she is unable to do so without violating the separation distance between neighboring manufactured homes and accessory structures.
9. The Board found that Ms. Bennett testified that the variances are necessary to enable reasonable use of the Property.
10. The Board found that Ms. Bennett testified that the exceptional practical difficulty was not created by the Applicant.
11. The Board found that Ms. Bennett testified that the Property is quite narrow which greatly limits the buildable area thereof and that the neighboring lots are also narrow causing development of nearby lots to be nearer to lot lines / neighboring homes.
12. The Board found that Ms. Bennett testified that it appears impossible for a home to be placed on the Property without violating the separation distance requirements.
13. The Board found that Ms. Bennett testified that the exceptional practical difficulty was created by the unique conditions of the Property and the development of adjacent lots.
14. The Board found that Ms. Bennett testified that the variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate development of adjacent property nor be detrimental to the public welfare thereof.
15. The Board found that Ms. Bennett testified that she is seeking these variances to add to the conformity to the community and to modernize the homes within the community which will subsequently add value and improve the characteristics of the community / neighborhood.
16. The Board found that Ms. Bennett testified that the variances sought are the minimum variances necessary to afford relief and the variances represent the least modifications possible of the regulation at issue.
17. The Board found that Ms. Bennett testified that the home is the narrowest available and minimizes the need for variance on the Property.
18. The Board found that Ms. Bennett testified that there are two (2) smaller 4 foot by 4 foot sheds on the neighboring property and that the surrounding structures create the need for variances on this lot.
19. The Board found that Ms. Bennett testified that tenants are supposed to apply for permits through the community prior to obtaining a permit from the County and constructing on the property. She noted that they are taking steps within the community to correct some of the nonconforming issues.
20. The Board found that Ms. Bennett testified that the structures on the neighboring lot A-30 are encroaching more than they would like.
21. The Board found that Ms. Bennett testified that the neighbors are pleased to welcome a new addition to the community
22. The Board found that Ms. Bennett testified that the prior home was dilapidated and demolished and that the proposed manufactured home will be located in the same location as the prior home.
23. The Board found that no one appeared in support of or in opposition to the Application.

24. 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 a small and narrow lot laid out prior to the enactment of the Sussex County Zoning Code. The lot consists of only 3,543 square feet and is 39.36 feet wide. The lot is also adjacent to a lot which is improved by a house with HVAC and sheds and the HVAC is on or near the shared property line and the sheds extend 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 with related structures on the lot while meeting all setback requirements. The effect of the placement of the HVAC and sheds on the adjacent lot combined with the already small size 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 related structures 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. 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 Property and the placement of the structures 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 related structures 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 dwelling and related structures are also reasonable (which is confirmed when reviewing the survey).
 - d. 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 HVAC and sheds on the neighboring property thereby restricting the building envelope on the Property. This building envelope is further limited due to the small size of the lot. The unique conditions of the Property and the development of the adjacent lot have created an exceptional practical difficulty and unnecessary hardship for the Applicant who seeks to place a reasonably sized home and related structures on the lot.
 - 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 dwelling and related structures 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 related structures 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. The Board also notes that the home will be located in a similar location as a prior home that was recently removed and had become dilapidated.
 - 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 construct a reasonably sized dwelling and related structures on the lot. The Board notes that the shed is needed for storage and that the dwelling is a reasonably sized manufactured home. The Applicant has demonstrated that it has worked with its manufacturer to secure a home that minimizes the need for a variance.

- 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. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to approve the variance application. Mr. Jeffrey Chorman and Mr. Travis Hastings 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 September 12, 2022