

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOHN BOBECK

(Case No. 12732)

A hearing was held after due notice on September 12, 2022. The Board members present were: Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for variances from the side yard and rear yard setback requirements for an existing garage

Findings of Fact

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

1. A variance of 0.7 feet from the ten (10) feet side yard setback requirement on the north side for an existing pole building; and
2. A variance of 1.9 feet from the ten (10) feet rear yard setback requirement for an existing pole building.

This application pertains to certain real property located on the southeast side of Hidden Acre Drive within the Hidden Acres Subdivision (911 Address: 32113 Hidden Acre Drive, Frankford); said property being identified as Sussex County Tax Map Parcel Number 134-11.00-76.00 ("the Property"). After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, pictures of the Property, inspection notes, a survey of the Property dated May 2, 2022, 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 John Bobeck was sworn in to testify about the Application.
4. The Board found that Mr. Bobeck testified that he purchased the Property in 2020 and that the seller told him that, when the house was built, the seller instructed the builder to center the home on the Property.
5. The Board found that Mr. Bobeck testified that they found pins in two (2) of the corners of the Property but were unable to locate one (1) pin because it was a tree and had since rotted.
6. The Board found that Mr. Bobeck testified that, since they believed the house to be centered on the lot, they did the math to based on the size of the Property and the placement of the house to determine where the property line was located. They used tape measures and string to mark out the Property and location for the pole building and they ran a line from the rear property corner to the other. According to Mr. Bobeck, they measured and believe the measurement to be accurate.
7. The Board found that Mr. Bobeck testified that he hired Delmarva Pole Building to install his pole building and the location of the pole building was formerly trees and shrubs but was cleared out to place his building.
8. The Board found that Mr. Bobeck testified that, after fighting with the contractor, he was able to get the County Inspector out to complete the required inspections and was failed for noncompliance with the setbacks and that he was instructed by Planning and Zoning staff to apply for the variance.
9. The Board found that Mr. Bobeck testified that he was shocked to find out that he only has 36 feet from the back of his house rather than the 38 feet that he thought

and he was also surprised to find that they did not complete any of the inspections for his building.


10. The Board found that Mr. Bobeck testified that it has been a constant fight on his end and he is here to ask for help with his building.
11. The Board found that Mr. Bobeck testified that he just wanted a workshop and a place to store his car.
12. The Board found that Mr. Bobeck testified that there have been no complaints about the pole barn and that he has received compliments on his improvements to the lot as he has done a lot of landscaping to improve the overall look of the Property.
13. The Board found that Mr. Bobeck testified that he installed his own electric for the pole barn.
14. The Board found that Mr. Bobeck testified that he obtained the necessary approvals for the driveway also.
15. The Board found that Mr. Bobeck testified that there is a buffer of trees behind the Property, which he thought was a tax ditch, and it is all farm land behind the Property.
16. The Board found that Mr. Bobeck testified that an engineer was brought in and he met with the County who approved everything except for the final inspection of the headers and setbacks.
17. The Board found that Mr. Bobeck testified that he believes that they put it where he staked it but they could have missed it or he could have been at fault. He noted that he will get a surveyor to stake out the property in the future.
18. The Board found that Mr. Bobeck testified that the Property is serviced by well and septic which limits his ability to place the building in another location.
19. The Board found that Mr. Bobeck testified that the garage measures 20 feet by 30 feet.
20. The Board found that Mr. Bobeck testified that the area on the survey coming off the structure is a concrete apron and that the bump outs off the house on the survey are steps.
21. The Board found that no one appeared in support of or in opposition to the Application.
22. 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 failed to meet the standards for granting a variance. The findings below further support the Board's decision to deny the Application.
 - a. Based on the testimony by the Applicant and the measurements by Planning & Zoning staff of the building from the survey, the pole building measures 20 feet by 30 feet. Pursuant to § 115-185 of the Sussex County Zoning Code, an accessory structure that measures 600 square feet or less may be located 5 feet from a side yard and 5 feet from a rear yard lot line. As such, no variance is needed because this structure otherwise complies with the Sussex County Zoning Code and the variance is not needed to afford relief. This determination is subject to final field inspection of the pole building by County officials to confirm the actual size of the pole building.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was denied. The Board Members in favor of the Motion to deny 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 deny the variance 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 November 7, 2022