

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MICHAEL SCHIAPPA & DIANE SCHIAPPA

(Case No. 12745)

A hearing was held after due notice on October 3, 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 separation distance requirements and the maximum lot coverage requirement within a manufactured home park.

Findings of Fact

The Board found that the Applicants are requesting the following variances:

1. A variance of 1.4 feet from the twenty (20) feet separation distance requirement between the proposed deck and existing manufactured home on Lot 256;
2. A variance of 1.7 feet from the twenty (20) feet separation distance requirement between the proposed deck and existing manufactured home on Lot 256; and
3. A variance of 165 square feet over the maximum allowable lot coverage of 35%.

This application pertains to certain real property located on north side of Brant Road (911 Address: 38144 Brant Road, Ocean View); said property being identified as Sussex County Tax Map Parcel Number 134-9.00-94.01 ("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 survey of the Property dated July 2, 2022, photographs, a letter from Bayshore, Inc., drawings, and Findings of Fact for Case No. 8841-2004.
2. The Board found that the Office of Planning & Zoning received one (1) letter in support of and no correspondence in opposition to the Application.
3. The Board found that Michael Schiappa and Dianne Schiappa were sworn in to testify about the Application.
4. The Board found that Mr. Schiappa testified that the deck will measure 8 feet by 38 feet. He believes that 8 feet wide decks are normal in the neighborhood.
5. The Board found that Mr. Schiappa testified that the lots are very narrow.
6. The Board found that Mr. Schiappa testified that the trailer park was built in the 1960s and homes were not as large as they are now.
7. The Board found that Mr. Schiappa testified that the Applicants want to construct a deck for further use and enjoyment of the Property and they cannot construct an 8 feet wide deck without the variance.
8. The Board found that Mr. Schiappa testified that the manufactured home was on the lot when they purchased it.
9. The Board found that Mr. Schiappa testified that, if the variances are not granted, they will not build the deck because a 6 feet wide deck is not practical.
10. The Board found that Mr. Schiappa testified that they have the approval of Bay Shore.
11. The Board found that Mr. Schiappa testified that the steps are prefab, hollow, and concrete and will be turned to meet up with the walkway. He intends to place the steps consistent with the pictures submitted with the Application.
12. The Board found that Mr. Schiappa testified that the neighbors on each side of them are okay with the proposal.

13. The Board found that Mr. Schiappa testified that the deck will not be covered.
14. The Board found that Mr. Schiappa testified that they have plans in the future to enclose the deck as shown in some pictures submitted.
15. The Board found that Mr. Schiappa testified that the room would be a 3 seasons room but for the time being it would be a deck.
16. The Board found that Mr. Schiappa testified that he calculated the lot coverage by adding the size of the structures and subtracting it from the lot size.
17. The Board found that Mr. Schiappa testified that the owner told him he usually requests a 7% variance for lot coverage when installing decks of this size but he is confident that they only need 5%.
18. The Board found that Mr. Schiappa testified that the steps will be facing the street not parallel to the road and that the steps will be in the front along Brant Road.
19. The Board found that Mr. Schiappa testified that the Applicants are looking to enclose a portion of the deck in the future and still have a deck remaining.
20. The Board found that Ms. Schiappa testified that they purchased the home in 2015.
21. The Board found that Ms. Schiappa testified that where the steps currently are would be turned into a 3 seasons room and the other portion remains a deck.
22. The Board found that no one appeared in support of or in opposition to the Application.
23. 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 is only 40.05 feet wide. The lot is also adjacent to a lots which are improved by houses and related structures. The lot is required to meet separation distance requirements for structures within the park but the Applicants are unable to place a reasonably sized deck on the lot while meeting all setback requirements. The effect of the placement of the structures on the adjacent lots 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 Applicants who seeks to place a deck 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 Applicants have 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 Applicants propose to place a deck on the lot but are 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 deck are also reasonable (which is confirmed when reviewing the survey).
 - d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicants. The Applicants did not create the size of the lot or place the structures 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 Applicants who seek to place a reasonably sized deck 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 deck 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 deck will be similar in size to other decks in the neighborhood.
- 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 Applicants have demonstrated that the variances sought will allow the Applicants to construct a reasonably sized deck on the lot. The Board notes that the deck is needed for functional outdoor space. The deck will run along the side of the house and the Applicants have designed steps to minimize further encroachments into the setback areas.
- 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 were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hasting, Mr. Jordan Warfel, and Mr. John Williamson. No Board Members voted against the Motion to approve 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 December 12, 2022.