

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: LYDIA DICKERSON**

**(Case No. 12763)**

A public hearing was held after due notice on November 21, 2022. The Board members present were: Dr. Kevin Carson, Mr. Jeffrey Chorman, and Mr. Jordan Warfel.

Nature of the Proceedings

This is an application for variances from the separation distance and front yard setback requirements for proposed structures.

Findings of Fact

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

1. A variance of 1.6 feet from the twenty (20) feet separation distance requirement to a structure on Lot 3A for a proposed dwelling,
2. A variance of 1.2 feet from the twenty (20) feet separation distance requirement to a deck on Lot 1A for a proposed dwelling,
3. A variance of 5.6 feet from the twenty (20) feet separation distance from the structure on Lot 3A to the steps on the proposed home,
4. A variance of 4.2 feet from the twenty (20) feet separation distance from the shed on Lot 1A to the side of the proposed home,
5. A variance of 6.7 feet from the twenty (20) feet separation distance from the corner of a shed on Lot 1A to the A/C unit on the side of the proposed home, and
6. A variance of 5 feet from the five (5) feet side yard setback requirement on the northeast side for steps.

This application pertains to certain real property located on the southwest side of Capes Cove Lane within the Capes Cove Manufactured Home Park (911 Address: 16306 Capes Cove Lane, Lewes); said property being identified as Sussex County Tax Map Parcel Number 335-8.00-22.00-2388 ("the Property"). 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 November 4, 2022, a drawing of the Property, Findings of Fact for Case No. 4622-1992, a petition and letters of support for the Application, 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 nine (9) letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Lydia Dickerson and Ken Alexander were sworn in to give testimony about the Application.
4. The Board found that Ms. Dickerson testified that they are requesting a variance approval for several setback distances due to the fact there is just not enough room on their property.
5. The Board found that Ms. Dickerson testified that their neighbors have expanded their trailer footprints with upgrades and the Applicants are the last of the owners in the neighborhood to replace their home.
6. The Board found that Ms. Dickerson testified that the lots are small due to the age of the trailer park and the Applicants seek to modernize and upgrade to a doublewide



- manufactured home but that redevelopment creates the need for variances. She noted that there are several doublewides in the park already.
7. The Board found that Ms. Dickerson testified that the variances are needed due to the size of the lot and the placement of the neighbor's deck and shed in relation to the proposed placement of their trailer with steps.
  8. The Board found that Ms. Dickerson testified that they have proposed a separation distance that would be fair to both neighbors.
  9. The Board found that Ms. Dickerson testified that the Applicants received approval letters from all residents of the park except for two residents who did not return an answer prior to this hearing. She noted that the Applicants also received approval from the Board of Directors for Capes Cove.
  10. The Board found that Ms. Dickerson testified that that the Applicants initially sought to place a larger unit on the Property but realized that it would encroach too much.
  11. The Board found that Ms. Dickerson testified that the model they are looking at is considered a 24 feet wide doublewide but the inner gutter is only 23.4 feet wide. She noted that they had a hard time finding a doublewide that small.
  12. The Board found that Ms. Dickerson testified that the Applicants are 1/13<sup>th</sup> owners of three (3) acres and it is her understanding that the Property was part of a trailer park with 40 feet by 60 feet lots but that the old lines are not there from the existing trailer park.
  13. The Board found that Ms. Dickerson testified that the unpermitted structures were existing prior to the purchase of their new trailer.
  14. The Board found that Ms. Dickerson testified that the existing home was a singlewide and the new request is a doublewide.
  15. The Board found that Ms. Dickerson testified that the existing singlewide with a porch was so narrow that she and her husband could not fit down the hallway.
  16. The Board found that Ms. Dickerson testified that they want to have enough room for their families to come vacation and enjoy the Property.
  17. The Board found that Ms. Dickerson testified that the ramp is a handicap ramp that will remain.
  18. The Board found that Ms. Dickerson testified that the deck and shed were on the Property before the neighbors purchased their home.
  19. The Board found that Ms. Dickerson testified that the steps listed are uncovered and grant them access into their mud room.
  20. The Board found that Mr. Alexander testified that the one issue is that they are the last neighbor to redevelop their lot and that the neighbors on each side have made improvements already. He noted that the redevelopment by neighbors has constrained the development of the Property.
  21. The Board found that Mr. Alexander testified that the smaller lot sizes of 40 feet by 60 feet established in the beginning it has created an issue for them as the other neighbors crept in on their lot and now they have to get variances to upgrade the Property.
  22. The Board found that Mr. Alexander testified that this doublewide will be consistent with the other doublewides in the neighborhood right now and that their improvements will help bring up the value of the whole area as everyone is making improvements to their trailers or mobile homes. He noted that this model is consistent with the widths of the other trailers in there as the trailers in the rest of the neighborhood are at least 24 feet wide.
  23. The Board found that Mr. Alexander testified that the original plan showed 40 feet by 60 feet lots with singlewide trailers on them.
  24. The Board found that Mr. Alexander testified that the Applicants discovered that there is a deck with no certificate of compliance issued and a shed that was never permitted. The Applicants are not asking for these structures to be moved but are seeking to comply as much as possible given they already exist.



25. The Board found that Mr. Alexander testified that they would like to enjoy their trailer like the rest of the families who live there get to enjoy their lots.
26. The Board found that Mr. Alexander testified that he does not feel they should be punished for being the last one to develop on their property. He noted that the Property is located between two (2) properties that have finished developing their property.
27. The Board found that Mr. Alexander testified that the existing trailer is like a submarine due to its narrowness.
28. The Board found that Corey Peterson and Richard Irvine were sworn in to testify in support of the Application.
29. The Board found that Mr. Peterson testified that he is the neighbor on Lot 1A and he supports the Application provided that the plan, as submitted, will not be changed.
30. The Board found that Mr. Irvine testified that he is the secretary of the tenant board for Capes Cove and that the other neighbor is the treasurer for the Capes Cove and she supports the request. He believes that the Applicants have support from all neighbors in the community.
31. The Board found that Mr. Irvine testified that the park, in general, is happy to have an upgraded home and that the Applicants have been good neighbors for many years.
32. The Board found that Mr. Irvine testified that homes have been replaced in the community.
33. The Board found that Mr. Irvine testified that the board appreciates the work that the Applicants have done to try to bring in something that will fit better than their original plan.
34. The Board found that Mr. Irvine testified that the Tenants Association is supports the project and hope it is approved for the Applicants.
35. The Board found that two people appeared in support of and no one appeared in opposition to the Application.
36. 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 which is part of a small, manufactured home park that has been redeveloped in recent years. The lot is shallow and narrow and is currently improved by a single-wide manufactured home that needs to be replaced. The lot is also adjacent to 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 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 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 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 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 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 significant support from neighbors, the community, and the tenants' association were evidenced in the record.
- 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 place a reasonably sized dwelling and related structures on the lot. 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 were Dr. Kevin Carson, Mr. Jeffrey Chorman, and Mr. Jordan Warfel. No Board Member voted against the motion to approve the Application. Mr. Travis Hastings and Mr. John Williamson 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 January 23, 2023.