

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

**IN RE: CURT SNYDER & MICHELLE SNYDER**

**(Case No. 12765)**

A hearing was held after due notice on December 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 a variance from the minimum lot width requirement for two proposed lots.

Findings of Fact

The Board found that the Applicants are requesting a 17.5 feet variance from the 150 feet lot width requirement for a proposed lot. This application pertains to certain real property located on the southwest side of Dirickson Creek Road across from Jan Mar Lane (911 Address: N/A); said property being identified as Sussex County Tax Map Parcel Number 134-21.00-14.02 ("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, property record information, a site plan dated May 8, 2009, and a survey of the Property dated August 11, 2022.
2. The Applicant proposes to subdivide the Property into two lots identified as "Lot 1" and Lot 2" on the Coastal Shores Subdivision Site Plan dated August 11, 2022. The lot width variance is needed in order for the Applicants to subdivide the lots as proposed. The variance request is for "Lot 1". Staff noted that no variance is needed for Lot 2.
3. The Board found that the Office of Planning & Zoning received one letter in support of and one letter in opposition to the Application.
4. The Board found that Curt Snyder and Michelle Snyder were sworn in to testify about the Application.
5. The Board found that Ms. Snyder testified that the Applicants are requesting to split the Property in two (2) lots with the intention of keeping both lots in her family. She noted that she had problems with the division of real estate after her parents passed away. She has two (2) children and hopes to divide the Property in two (2) lots.
6. The Board found that Ms. Snyder testified that, when the Applicants purchased the Property, the front easterly corner towards the road was originally the septic field for the lot next door. At some point, the neighbor deeded that area to the Applicants.
7. The Board found that Ms. Snyder testified that, the transfer of the additional land provided the Applicants with enough room for two (2) septic fields. The Applicants consulted with an architect who told them that the Property could be divided into two (2) lots.
8. The Board found that Ms. Snyder testified that each of the proposed lots would consist of over two (2) acres and that the Property totals 5.15 acres. She noted that, even though there is enough acreage to divide the Property, there is not enough road frontage to meet the minimum lot width requirement. She noted that one lot will comply but the other lot will fall slightly short of that requirement.
9. The Board found that Ms. Snyder testified that the existing neighborhood directly across the street is mostly made up of lots ½ acre or less.
10. The Board found that Ms. Snyder testified that there is a cul-de-sac and then an adjacent part was originally part of a farm that was split into four (4) or five (5) acres.

11. The Board found that Ms. Snyder testified that the lots across the street and down the road are all smaller lots.
12. The Board found that Ms. Snyder testified that they are not trying to subdivide into townhouses or lots of single-family homes as there will still be over two (2) acres for each lot.
13. The Board found that Ms. Snyder testified that the rear portion of the Property consists of restricted wetlands.
14. The Board found that Ms. Snyder testified that the proposed lots will be long, narrow, and deep and the septic fields will be located towards the front of the lots.
15. The Board found that Ms. Snyder testified that there is nothing presently on the Property other than two (2) sheds for the storage of maintenance equipment.
16. The Board found that Ms. Snyder testified that Millers Neck Creek runs behind the Property and that there is no way to have small lots past Millers Neck Creek which is where the bridge crosses the creek.
17. The Board found that Ms. Snyder testified that, across the street, there is a conclave of about six (6) houses on quarter acre lots.
18. The Board found that Ms. Snyder testified that they will have enough buildable width once these lots are created to construct the dwellings without the need for additional variances.
19. The Board found that Ms. Snyder testified that the soil has been analyzed twice since they purchased the Property and is approved for septic.
20. The Board found that Ms. Snyder testified that the Property slopes towards the creek.
21. The Board found that Ms. Snyder testified that a lot of the lots in that area extend farther out into the creek and have wetlands closer to the road than the Applicants' lot.
22. The Board found that Ms. Snyder testified that the neighbors wanted water access and for no one to build behind them which is why they allowed them to reabsorb their septic field.
23. The Board found that Ms. Snyder testified that the restrictive covenant of the homeowners association is that there cannot be a manufactured home and the Applicants do not intend to place a manufactured house on the Property.
24. The Board found that Mr. Snyder testified that they have 2 (two) sheds on the Property for storage.
25. The Board found that Mr. Snyder testified that, in the field behind there, is a huge subdivision going in and, when you get farther down towards Dirickson Creek there are subdivisions.
26. The Board found that no one appeared in support of or in opposition to the Application.
27. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application for the variance from the lot width requirement met the standards for granting a variance. The findings below further support the Board's decision to approve the variance from the lot width requirement.
  - a. The Property is unique due to its size and shape. While the Property is large and easily has enough acreage to be subdivided into 2 lots, the Property is slightly too narrow to be subdivided into two lots. Notably, the Property has availability for 2 septic systems even though it is close to Millers Creek. The Applicants are unable to subdivide the Property while meeting the road frontage requirements even though the Property is a large lot that would create 2 lots that are larger than other lots in the area. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicants who seek to reasonably subdivide the Property.

- 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 situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seek to reasonably subdivide the Property but are unable to do while comply with the Sussex County Zoning Code. The Board is thus convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow the Applicants to reasonably subdivide the Property into 2 lots. The Board is convinced that the size, shape, and location of the Proposed Lot 1 is reasonable. The Board notes that the subdivision of the Property should help the Applicants to avoid estate planning issues in the future.
- d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicants. As discussed above, the Property has unique conditions which have limited the Applicants' ability to reasonably subdivide the Property. The Applicants did not create the unique shape of the lot and the Board was convinced that the Applicants have not created the exceptional practical difficulty and unnecessary hardship. Furthermore, the Board is convinced that the Applicants did not come to the Property with an illegal use in mind. Rather, the Applicants are limited by the physical conditions of the Property and need the variance to reasonably subdivide the Property as proposed. The Board also notes that this proposed subdivision will create larger lots than are found in parts of the neighborhood.
- e. The variance 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 proposed subdivision will have no effect on the character of the neighborhood. The proposed subdivision will effectively delineate a property line to create 2 large lots in an area where there are already smaller lots. The Board was not convinced by substantial evidence from the opposition that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, the opposition's concerns appeared speculative.
- f. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicants have demonstrated that the variance sought will allow the Applicants to reasonably subdivide the Property into two large lots. The Board notes that Lot 2 will meet the lot width requirements and Lot 1 only needs a small 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 for the lot width requirement finding that the request met the standards for granting a variance.

#### Decision of the Board

Upon motion duly made and seconded, the application for the variance from the lot width requirement was approved. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Members voted against the Motion to approve the application for the variance from the lot width requirement.

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 February 6, 2023