

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RHONDA MANSHIP

(Case No. 12054)

A hearing was held after due notice on November 20, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the minimum road frontage requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 98.69 feet from the one hundred and fifty (150) feet minimum road frontage requirement for a minor subdivision of land along Gravel Hill Road. This application pertains to certain real property is located on the south side of Neptune Road, approximately 494 feet west of Gravel Hill Road (Route 30) and on the west side of Gravel Hill Road approximately 743 feet south of Neptune Road (911 Address: 23240 Neptune Road, Milton); said property being identified as Sussex County Tax Map Parcel Number 2-35-25.00-4.07.

1. The Board was given copies of the Application, a portion of the tax map of the area, an aerial photograph of the Property, deeds to the Property, a survey of the Property dated April 2009, and a survey of the Property dated March 10, 2017.
2. The Application pertains to the road frontage for proposed Parcel 2 of a two-lot subdivision of the existing parcel. Parcel 1 fronts along Neptune Road and meets the road frontage requirement. Parcel 2 fronts along Route 30 and does not meet the road frontage requirement.
3. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
4. The Board found that Rhonda Manship, Richard Manship, and Barbara Manship were sworn in to testify about the Application and submitted a survey for the Board to review.
5. The Board found that Rhonda Manship testified that the Property has a pipeline driveway.
6. The Board found that Rhonda Manship testified that her mother-in-law previously owned the Property and combined two parcels. She would like to reinstitute the line and give Parcel 2 to her daughter.
7. The Board found that Rhonda Manship testified that Parcel 2 has access to Route 30 from the pipeline driveway.
8. The Board found that Richard Manship testified that the Property was previously subdivided as proposed.
9. The Board found that Richard Manship testified that the frontage along Route 30 will be a driveway to Parcel 2 in the rear.
10. The Board found that Richard Manship testified that the Property has 150 feet of road frontage along Neptune Road.
11. The Board found that Barbara Manship testified that the Property was combined in 2009 and that the Property previously consisted of two (2) lots.
12. The Board found that no parties appeared in support of or in opposition to the Application.
13. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board finds credible, persuasive, and un rebutted, 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, which consists of 3.37 acres as shown on the survey, is unique as it is a large but oddly shaped lot. The Property has sufficient road frontage along Neptune Road and Route 30 but the frontage along Route 30 is exceptionally narrow. The Property also has a unique history because it previously consisted of two lots which were later combined into one lot. Portions of other lots were also combined as well. These unique characteristics of the Property have created an exceptional practical difficulty for the Applicant who seeks to subdivide the lot and restore a pre-existing boundary line.
- b. Due to the Property's unique conditions, the Property cannot be subdivided in strict conformity with the Sussex County Zoning Code. The Applicant seeks to subdivide the Property into two lots but is unable to do so without violating the Sussex County Zoning Code due to the narrowness of the lot along Route 30. The Board is convinced that the proposed subdivision of the Property is reasonable and that the variance requested is necessary to enable the reasonable use of the Property as the variance will allow the Applicant to reasonably subdivide the Property. The survey attached to the Application confirms that the subdivision is reasonable.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unique size and shape of the Property as she only recently acquired the Property. The Property is quite large and could easily service two dwellings on separate lots but the Property is too narrow along Route 30 to meet the lot width requirement. The unique characteristics of the Property are clear when reviewing the survey. The Board is convinced that these unique conditions have created an exceptional practical difficulty for the Applicant.
- d. 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 Property will be subdivided into two lots – one of which will meet the necessary lot width requirement and one of which will be smaller than the lot width requirement. The un rebutted evidence confirms that two lots were previously subdivided in a similar manner on the Property and the Applicant proposes to restore that boundary line. No evidence was presented that the proposed subdivision of the Property would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
- e. 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 Applicant has demonstrated that the variance will allow the Property to be subdivided into two lots. The proposed subdivision will include one lot which will meet the lot width requirement. While the road frontage for Parcel 2 will be less than 150 feet, there is no actual change to the road frontage from the Property along Route 30 as the subdivision does not change the amount of available road frontage.

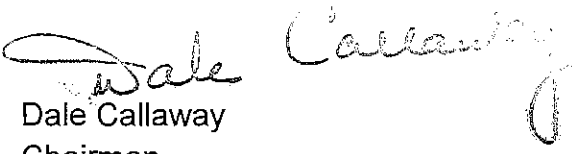
The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears,

Mr. John Mills, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date January 23, 2018.