

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

**IN RE: COLLEEN FITZGERALD**

**(Case No. 12421)**

A hearing was held after due notice on March 2, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the separation distance requirement between units for existing and proposed structures.

Findings of Fact

The Board found that the Applicant is requesting a variance of 1.8 feet from the twenty (20) feet separation distance requirement for a proposed addition to a dwelling in a manufactured home park. The Property is located on the north side of Sandpiper Road within the Pot Nets Seaside Manufactured Home Park (911 Address: 37109 Sandpiper Road, Millsboro) said property being identified as Sussex County Tax Map Parcel Number: 2-34-31.00-4.00-6011. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a drawing of the Property, photographs, a letter from the community operator, 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 one letter in support of and no correspondence in opposition to the Application.
3. The Board found that Colleen Fitzgerald was sworn in to testify about the Application.
4. The Board found that Ms. Fitzgerald testified that the property is unique as it is a reverse pie shape and that the building envelope will only allow for a single-wide manufactured home.
5. The Board found that Ms. Fitzgerald testified that, as the homeowner, she would like to expand the rear of the house to enlarge the bedroom and the master bathroom because the master bedroom is exceptionally small.
6. The Board found that Ms. Fitzgerald testified that the Property cannot otherwise be developed without granting the variance.
7. The Board found that Ms. Fitzgerald testified that the variance given to a neighbor for a shed has created the exceptional practical difficulty.
8. The Board found that Ms. Fitzgerald testified that the house is 36 years old and she is renovating it and those renovations will enhance the neighborhood.
9. The Board found that Ms. Fitzgerald testified that she purchased the house in October 2019.
10. The Board found that Ms. Fitzgerald testified that the variance will not alter the essential character of the neighborhood as there are many homes with additions in the community.
11. The Board found that Ms. Fitzgerald testified that she proposes to construct a 5 foot wide addition and the shed will be removed.
12. The Board found that Ms. Fitzgerald testified that, with the proposed addition, the dwelling will still be 10 feet from the property line.
13. The Board found that Ms. Fitzgerald testified that the variance requested is the minimum variance to afford relief.

14. The Board found that Ms. Fitzgerald testified that the only issue is with the section of the neighbor's bump-out.
15. The Board found that no one appeared in support of or in opposition to the Application.
16. 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 oddly shaped lot with a dwelling constructed prior to the Applicant's purchase of the Property. The Property is subject to separation requirements from other structures in the neighborhood and the Applicant is restricted on where to place certain structures due to those requirements. The development on neighboring properties has significantly constrained the Applicant. The Applicant's home is centered on the lot but a neighboring dwelling is located close to the shared lot line. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to construct a reasonable addition but is unable to do so without a variance.
  - 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 situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The dwelling was constructed by a prior owner and the Applicant seeks to construct a reasonable addition to the house but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow the addition to be constructed on the Property. The Board is convinced that the shape and location of the addition are reasonable, which is confirmed when reviewing the survey provided by the Applicant. The Board also notes that the addition is necessary due to the limited size of the existing master bedroom. The Applicant is renovating a home that is 36 years old and this addition is part of that renovation.
  - d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicant. The Property has unique conditions, as discussed above, and those conditions have limited the building envelope on the Property and have created an exceptional practical difficulty. Importantly, the Applicant did not develop the Property with the dwelling. Rather, the dwelling was placed on the Property by a prior owner. The Applicant is unable to construct a reasonable addition due to the unique shape of the property, the existing layout of the home, and the construction on neighboring lands.
  - 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 dwelling has been on the Property for some time and the Applicant seeks to construct a reasonable addition. Similar structures are found in the neighborhood and the community operator supports the request. No evidence was presented that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
  - 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 Applicant has demonstrated that the variance

sought will allow the Applicant to construct a reasonable addition on the Property. The addition will still be 10 feet from the shared property line and is a narrow addition to the home.

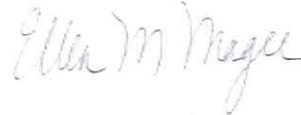
- g. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

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 of the Motion to approve were Dr. Kevin Carson, Mr. Jeffrey Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



Ellen M. Magee  
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date May 5, 2020.