

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOANN TEIKEN

(Case No. 12429)

A hearing was held after due notice on June 1, 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 proposed structures.

Findings of Fact

The Board found that the Applicant is requesting a variance of 5.1 feet from the twenty (20) feet separation distance requirement between structures in a manufactured home park for a proposed deck and a variance of 1.1 feet from the twenty (20) feet separation distance requirement between structures in a manufactured home park for a proposed set of steps. The variance is needed from the deck and steps to the dwelling on the lot to the west of the Property. The Property is located on the north side of Dove Road within the Bayshore manufactured home park (911 Address: 38015 Dove Road, Ocean View) said property being identified as Sussex County Tax Map Parcel Number: 1-34-9.00-94.01-13051. 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 October 16, 2019, a letter from Bayshore, Inc., a letter from Robin Little, a picture of the existing porch, 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 two letters in support of and no correspondence in opposition to the Application.
3. The Board found that Joann Teiken was sworn in to testify about the Application.
4. The Board found that Ms. Teiken testified that the proposed deck will measure 8 feet by 12 feet.
5. The Board found that Ms. Teiken testified that she is 74 years old and needs better access to the home. The deck will also afford her with more usable outdoor space.
6. The Board found that Ms. Teiken testified that she purchased the home in 2004 and the home was in its present location at that time.
7. The Board found that Ms. Teiken testified that she cannot build the deck without a variance.
8. The Board found that Ms. Teiken testified that the variances requested are the minimum variance requests to afford relief.
9. The Board found that Ms. Teiken testified that the variances will not alter the essential character of the neighborhood as 31 of the 45 lots in the neighborhood have decks.
10. The Board found that Ms. Teiken testified that the manufactured home is a 1978 model and was moved to the site in 1979. The home measures 14 feet wide.
11. The Board found that Ms. Teiken testified that her neighbor's manufactured home was installed prior to her ownership.
12. The Board found that Ms. Teiken testified that the park was created in 1966 and predates the Sussex County Zoning Code.
13. The Board found that Ms. Teiken testified that the Property is unique as her home is 5 feet from the property line on the east side but her neighbor on the west side is only 2 feet from the property line causing the need for this variance.

14. The Board found that Ms. Teiken testified that the steps to the deck will project towards Dove Road and will be 4 feet wide.
15. The Board found that no one appeared in support of or 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 narrow lot with a dwelling constructed prior to the Applicant's purchase of the home. 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 located 5 feet from the property line to the east but the neighboring dwelling to the west is located only 1.9 feet from the shared lot line. Consequently, the building envelope is narrow and limited. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to construct a reasonable deck and steps 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 deck and steps for safer access to the house but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow these structures to be constructed on the Property. The Board is convinced that the shape and location of the structures are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
 - 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 or place the dwelling on the neighboring lot so close to the shared property line. Rather, the dwelling was placed on the Property by a prior owner. The Applicant is unable to construct a reasonable deck and steps due to the unique size of the Property, the existing layout of the home, and the construction on neighboring lands.
 - 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 dwelling has been on the Property for some time and the Applicant seeks to construct a reasonable deck and steps. Similar structures are found in the neighborhood and the community operator supports the request. No evidence was presented that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
 - 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 construct a reasonable deck and set of steps on the Property.

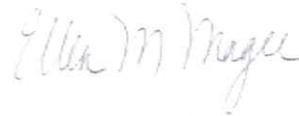
- g. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.
- h. The Board also notes that the steps will allow the Applicant, who is 74 years old, with better and safer access to the dwelling. The picture provided by the Applicant demonstrates that the existing access could be improved.

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 July 7, 2020.