

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DAVID LUETTGEN & CONSTANCE LUETTGEN

(Case No. 12447)

A hearing was held after due notice on July 20, 2020. The Board members present were: Dr. Kevin Carson, Ms. Ellen Magee, Mr. John Williamson and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the side yard setback requirement and separation distance requirement between units in a manufactured home park for proposed and existing structures.

Findings of Fact

The Board found that the Applicants are requesting the following variances: 1) a variance of 2.3 feet from the twenty (20) feet separation distance requirement from Lot 64 for a proposed outdoor shower, 2) a variance of 8.8 feet from the twenty (20) feet separation distance requirement from Lot 64 for the existing landing and steps, 3) a variance of 8.5 feet from the twenty (20) feet separation distance requirement from Lot 64 for the existing HVAC system, 4) a variance of 4.2 feet from the twenty (20) feet separation distance requirement from Lot 65 for a proposed outdoor shower, 5) a variance of 11 feet from the twenty (20) feet separation distance requirement from Lot 68 for a proposed deck, 6) a variance of 9.7 feet from the twenty (20) feet separation distance requirement from Lot 68 for an existing shed, 7) a variance of 1.8 feet from the five (5) feet side yard setback requirement on the northeast side for the existing landing and steps, and 8) a variance of 1.5 feet from the five (5) feet side yard setback requirement on the northeast side for the existing HVAC system. This application pertains to certain real property located on the northwest side of Center Avenue within the Sea Air Village manufactured home park (911 Address: 19942 Center Avenue, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-310.00-55797. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from Constance Luetgen, drawings, a survey of the Property dated May 4, 2017, a proposed site plan dated March 5, 2020, an exterior improvement request, property record information, literature on the proposed deck, a certificate of occupancy, the findings of fact for Case No. 12011, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board notes that a previous variance application was approved in 2017 (Case No. 12011) for a proposed dwelling.
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 David Luetgen and Constance Luetgen were sworn in to testify about the Application.
5. The Board found that Mr. Luetgen testified that he is requesting a variance to build a deck measuring 10 feet by 20 feet.
6. The Board found that Mr. Luetgen testified that the Property is unique as it is narrower than the surrounding lots.
7. The Board found that Mr. Luetgen testified that the dwelling on the lot is only a single-wide manufactured home whereas that neighboring lots are improved with doublewide manufactured homes.
8. The Board found that Mr. Luetgen testified that the property cannot otherwise be developed.

9. The Board found that Mr. Luetzgen testified that the original plans were for an enclosed and roofed deck but a more reasonable request is now being made for an open deck.
10. The Board found that Mr. Luetzgen testified that the present conditions existed prior to the Applicants' purchase of the home in 2018.
11. The Board found that Mr. Luetzgen testified that the exceptional practical difficulty was created by other property owners installing additions and sunrooms on this street.
12. The Board found that Mr. Luetzgen testified that the variances will not affect the essential character of the neighborhood as the other homes in the area have decks and sunrooms.
13. The Board found that Mr. Luetzgen testified that the variances requested are the minimum variances requested to afford relief and allow a reasonable size deck to be built.
14. The Board found that Mr. Luetzgen testified that the neighbors are supportive and there have been no complaints.
15. The Board found that Mr. Luetzgen testified that the prior owner obtained the variance for the dwelling and that the steps existed on the lot when he purchased the home.
16. The Board found that Ms. Luetzgen testified that they moved into the Property in August 2018.
17. The Board found that Ms. Luetzgen testified that there is an existing platform at the top of the steps.
18. The Board found that Ms. Luetzgen testified that there is an eight inch drop off the driveway.
19. The Board found that Ms. Luetzgen testified that Mr. Luetzgen has an artificial ankle so the steps and deck will make access easier for him and others to access the house safely and that she has bad knees as well. Mr. Luetzgen agreed and he testified that he has a unique handicap and has difficulty using ramps.
20. The Board found that Mr. Luetzgen testified that the deck has been approved by the landlord.
21. The Board found that Mr. Luetzgen testified the shower will also be used for storage and that the storage in the shed is limited.
22. The Board found that no one appeared in support of or opposition to the Application.
23. 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 for the variances met the standards for granting a variance. The findings below further support the Board's decision to approve the Application for the variances for those structures.
 - a. The Property is unique as it is narrow and shaped at an angle. The lot was laid out with others in the community and the lots are small in comparison with the size of modern-sized manufactured homes. The Applicants' lot is improved by a singlewide manufactured home while nearby homes are doublewide homes. The Applicants seek to retain and construct certain improvements on the lot but are unable to do so due to the location of the structures on neighboring lots (Lots 64 and 68). Notably, the home on Lot 68 is very close to the property line and its HVAC unit actually encroaches onto the Property. The narrow shape of the lot has created an exceptional practical difficulty and an unnecessary hardship for the Applicants who seek to retain and construct certain improvements but cannot do so in compliance with the Sussex County Zoning Code.
 - 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 neighboring lots, the Property cannot be developed in strict conformity

with the Sussex County Zoning Code. The Applicants seek to retain and construct certain improvements but are unable to do so without violating the separation distance requirements between mobile homes and the side yard setback requirement. The variances are thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the structures are also reasonable (which is confirmed when reviewing the survey).

- d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicants. The Property is quite narrow which greatly limits the buildable area thereof. The buildable area is further restrained by the location of structures on adjacent lots. This unnecessary hardship and exceptional practical difficulty were created by the unique conditions of the Property and the development of adjacent lots. The Applicants did not place the home on this lot or the neighboring lots and the Applicants are constrained by these developments.
- 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 structures will not have a negative impact on the neighborhood. 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 notes that the landlord has approved these requests.
- 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 Applicants have demonstrated that the variances sought will allow the Applicants to retain and construct certain improvements on the Property. These structures are limited in size while still affording the Applicants with reasonable use thereof.
- g. The Board notes that the Applicants suffer from medical issues which necessitate the addition of the deck to afford safer access to the home. The Board's approval is a reasonable accommodation to afford such relief to the Applicants.
- h. 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 the variance were Dr. Kevin Carson, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application. Mr. Jeffrey Chorman did not participate in the discussion or vote on this 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 September 21, 2020.