

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DAWN NANZ

(Case No. 12452)

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 for proposed structures.

Findings of Fact

The Board found that the Applicant is requesting a variance of 1 foot from the five (5) feet side yard setback requirement on the northeast side for a proposed screen porch and a variance of 1 foot from the five (5) feet side yard setback requirement for existing steps. This application pertains to certain real property that is located on the southwest side of Colonial Lane within the Colonial East manufactured home park (911 Address: 19 Colonial Lane, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-335.01-7543. 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 February 28, 2020, letters in support of the Application, 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 four letters in support of and no correspondence in opposition to the Application.
3. The Board found that Dawn Nanz was sworn in to give testimony about the Application.
4. The Board found that Ms. Nanz testified that there is an existing deck on the house and she would like to screen in the deck.
5. The Board found that Ms. Nanz testified that the porch will not encroach any farther than the existing deck.
6. The Board found that Ms. Nanz testified that the lot is small.
7. The Board found that Ms. Nanz testified that the deck ties into the existing fence and was built by her son many years ago with approval from the community.
8. The Board found that Ms. Nanz testified that the Property cannot otherwise be developed for a screened porch without the variance.
9. The Board found that Ms. Nanz testified that she did not create the small lot size and the variance is needed due to the small lot size.
10. The Board found that Ms. Nanz testified that the porch will not alter the essential character of the neighborhood.
11. The Board found that Ms. Nanz testified that there have been no complaints.
12. The Board found that Ms. Nanz testified that the variance is the minimum variance to afford relief from bugs and mosquitos.
13. The Board found that Ms. Nanz testified that she bought the house in 1999 and moved there in 2002. The lot is leased
14. The Board found that Ms. Nanz testified that there is a terrible bug problem.
15. The Board found that Ms. Nanz testified that other porches in the neighborhood are covered.
16. The Board found that Stevan Class was sworn in to testify about the Application. Mr. Class represents the landlord and supports the Application.
17. The Board found that one person appeared in support of and no one appeared in opposition to the Application.

18. 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 due to its size and shape. The Property is small as it consists of only 4,364 square feet and has angled lot lines. The Property is also subject to bug problems which necessitate a screen porch rather than an open deck. These unique characteristics of this Property have created an exceptional practical difficulty and unnecessary hardship for the Applicant who seeks to retain an existing set of steps on the Property and to construct a reasonably sized screen porch.
 - 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 lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has a unique size and shape and the buildable area thereof is limited due to its size and shape. The Applicant seeks to retain an existing set of steps and to construct a screen porch on the Property 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 a reasonably sized, existing set of steps to remain on the lot and for the Applicant to construct a new screen porch on the site. The Board is convinced that the shape and location of these structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicant. The Board also notes that the porch will afford the Applicant with reasonable use due to the bug problem on the site.
 - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. The Applicant did not create the unusual size, shape, and condition of the Property. These conditions have resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. The unique characteristics of the Property are clear when reviewing the survey. The Board is convinced that the unnecessary hardship and exceptional practical difficulty were not created by the Applicant but were created by the lot's unique characteristics.
 - 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 existing set of steps will have no effect on the character of the neighborhood. The steps have been on the Property for many years and no objections were noted in the record. Likewise the porch will be located in the same area as an existing deck. No complaints were noted about the porch either. There was no evidence as to why the variances for these structures would alter the alter the essential character of the neighborhood.
 - 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 her to retain a set of steps on the Property while also constructing a new porch. The Applicant is limited by the Property's unique conditions but the location of these structures minimizes the need to further encroach into the setback areas.
 - 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

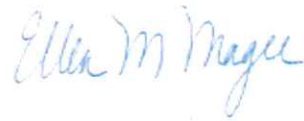
the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

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, 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.

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.