

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SUN HOME SERVICES, INC.

(Case No. 12485)

A hearing was held after due notice on October 19, 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 for proposed and existing structures.

Findings of Fact

The Board found that the Applicant is requesting the following variances: 1) a variance of 7 feet from the twenty (20) feet separation distance requirement between the proposed dwelling on Lot 49 and the shed on Lot 51; 2) a variance of 4.4 feet from the twenty (20) feet separation distance requirement between a proposed dwelling on Lot 49 and an existing deck on Lot 51; 3) a variance of 2.1 feet from the twenty (20) feet separation distance requirement between the storage building on Lot 48 and the proposed dwelling on Lot 49; 4) a variance of 1 foot from the twenty (20) feet separation distance requirement between the dwelling on Lot 47 and the proposed steps on Lot 49; 5) a variance of 3.8 feet from the twenty (20) feet separation distance requirement between the existing landing on Lot 47 and the proposed steps on Lot 49; 6) a variance of 8.8 feet from the twenty (20) feet separation distance requirement between the existing shower on Lot 47 and the proposed shed on Lot 49; and 7) a variance of 7 feet from the twenty (20) feet separation distance requirement between the existing shed on Lot 51 and the proposed HVAC system on Lot 49. The Property which is the subject of this Application is identified as Lot 49 in the Sea Air subdivision. The Property is located on the east side of Center Avenue within the Sea Breeze Manufactured Home Park (911 Address: 19899 Center Avenue, Rehoboth Beach) said property being identified as Sussex County Tax Map Parcel Number: 3-34-13.00-310.00-3042. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, photographs, a survey of the Property dated July 23, 2020, 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 no correspondence in support of or in opposition to the Application.
3. The Board found that Kaylie Bush was sworn in to testify about the Application.
4. The Board found that Ms. Bush testified that the property is unique as it is narrow and shaped at an angle.
5. The Board found that Ms. Bush testified that the lot was created in the 1930s and is small in comparison with the size of modern manufactured homes.
6. The Board found that Ms. Bush testified that the manufactured home is the narrowest available on the market today but still requires variances and that the narrow shape of the lot makes it difficult to place a new manufactured home on the Property consistent with others in the neighborhood while complying with the Sussex County Zoning Code.
7. The Board found that Ms. Bush testified that, due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Code.
8. The Board found that Ms. Bush testified that the proposed manufactured home is the minimum width sized manufactured home that is consistent with other homes in the community.

9. The Board found that Ms. Bush testified that the exceptional practical difficulty was not created by the Applicant but by the uniqueness of the lot.
10. The Board found that Ms. Bush testified that the lot is narrow and greatly limits the building area thereof.
11. The Board found that Ms. Bush testified that it appears impossible to place a home on the lot without violating the separation distance requirements.
12. The Board found that Ms. Bush testified that the exceptional practical difficulty was created by the unique conditions of the Property and development of neighboring lots.
13. The Board found that Ms. Bush testified that the variances will not alter the essential character of the neighborhood but will add value and improve the characteristics of the community.
14. The Board found that Ms. Bush testified that the variances sought are the minimum variances necessary to afford relief and to allow a narrow manufactured home to be placed on the lot.
15. The Board found that Ms. Bush testified that there was a manufactured home on this property previously and that home measured 12 feet by 60 feet.
16. The Board found that Ms. Bush testified that the shed cannot be placed elsewhere on the lot.
17. The Board found that Ms. Bush testified that she has received no complaints.
18. The Board found that no one appeared in support of or opposition to the Application.
19. 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 unrebutted, 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 and the Applicant proposes to place a new manufactured home and related structures on the lot to replace an older home previously on the lot. The Property is subject to separation distance 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. Notably, the proposed home and related structures do not meet separation distance requirements from 3 sides of the property and the other side is the side facing the road. Due to the location of the structures on the neighboring lots and the unique size and shape of the lots, the Applicant's building envelope is narrow and limited. These conditions have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to place a new dwelling and related structures on the lot 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 lot is small and narrow and is significantly limited by the separation distance requirements. The structures on neighboring lands were placed by neighbors and the Applicant seeks to place a new dwelling and related structures on its lot 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 the Applicant to improve the lot as proposed. The Board is convinced that the shape and location of the structure is reasonable, which is confirmed when reviewing the survey provided by the Applicant.

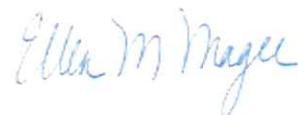
- d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicant. The Property has unique conditions, as discussed above, and those conditions have limited the building envelope on the Property and have created an exceptional practical difficulty. Importantly, the Applicant did not place the structures on the neighboring lots so close to the shared property line. The Applicant is unable to construct a reasonable dwelling and related structures due to the unique size of the Property and the construction on neighboring lands. The Board also notes that the lot was created in the 1930s prior to the enactment of the Sussex County Zoning Code.
- 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 Applicant seeks to place a reasonably sized dwelling and related structures on the lot to replace a prior home. No evidence was presented that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, the home will be consistent with other homes in 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 regulation at issue. The Applicant has demonstrated that the variances sought will allow the Applicant to place a reasonable home and structures on the Property. The Board is convinced that the home is the minimum sized home to afford reasonable use of 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.

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 December 21, 2020