

RECEIVED

JAN 13 2023

SUSSEX COUNTY
PLANNING & ZONING

January 12, 2023

Jodi McLaughlin

30317 Pine Needle Drive

Ocean View, DE 19970

Sussex County Board of Adjustments; Public Hearing, January 23, 2023

County Council Chambers, Planning and Zoning Commission

2 The Circle PO Box 417

Georgetown, DE 19947

Attention Planning and Zoning Commission,

As regards to Case No. 12783- Michael and Robyn Mooney Front lot set back variance request-

We object to the requested 15' setback as we believe it will depreciate our home's property value. I write this letter with respect for individual property rights determined by the following; Definition and Reason for Residential Setbacks: Examples-"Intended to help ensure home security, privacy, a uniform appearance, environmental protection, natural lighting, ventilation, visual access, increase sound insulation and vehicular access..." Determining factors of Property Value in Sussex County: In addition to Sussex County property assessment, other factors may include neighborhood appeal, natural environment such as views, space, and vegetation.

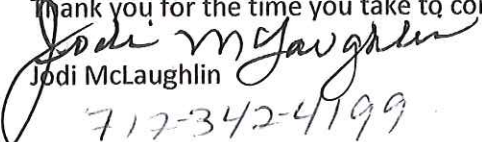
Our current home value is based on a 2021 Appraisal and Real Estate Comps that considered the interior of our home as well as the exterior space that currently allows adequate light, noise reduction, and view of southwest marsh and waterway. Our home was built in 2010 and we chose a "greater than" distance of the county setback requirements on all sides. This was with foresight to create some sense of privacy considering the small size of our approximate 50' X 115' bulk-headed single lot. We understood that 10' side yard setbacks allows for space between adjacent homes and the 30' front yard setback could allow for off street parking of an average 8 vehicles. If the average length of a US vehicle is 15' that means a driveway needs to be deeper. Having adequate off street parking is desirable so that residents and visitors do not impede mailboxes' or neighbors right of way. This happens quite often on Pine Needle Drive. Including a 32' setback and large narrow home, we have over 35' from our bulkhead to back porch. A pool with deck could easily be built there. Creative lot design is the key, and there is that in spades in Sussex County. The homes on each side of us, 30315 (Egners) and 30319 (Mooney's) Pine Needle Drive, are both currently set-back approximately 30' in line with our home. The most important aspect we expected with 30' front yard setback of those 2 residences next door to us is allowing plenty of daylight to shine into the southwest corner and front 2nd floor great room. We depend on that daylight especially during the winter season when the sun is lower in the sky and brings warmth into the most used space of our home.

Keeping in mind the definition and reason for a 30' front yard setback, we believe code #115-182 refers to the average of those buildings on the same side of the street and in the case of Pine Crest Terrace, most other homes in the subdivision. Should the Mooney's be permitted to build a new home to their proposed 15' front yard setback property line our main objection is the portion of their home that will extend forward along our south property line. The 15' setback will be measured off the first 33.89' (see lot diagram) and will surely decrease our home's value. It will create a blocked in affect along our south property line, it will block light to our southwest windows and great room. It will affect the airflow to those windows, increase noise, as well as create a lack of privacy. We will lose the view of the portion of marsh and bird life that we always assumed would remain at the dead end of our road, no matter the growth of new homes on our road. We built with future home growth and the setback specifications in mind! We cannot tear down and reconfigure our home. Our home's property value is at stake here.

My family has owned the property at 30317 Pine Needle Drive since it was developed from wetlands in 1968 so I am able to give a brief history of Pine Needle Drive, formerly named Pine Needle Road on my deed. (See included original Wilgus road plan) The original dirt road included a turn-around at the dead end, between 30319 and 30320 Pine Needle Road. Some of the prior owners of those 2 lots (not the Mooney's) allowed grass to grow into the turn-around. We have always hoped the turn-around would be restored. Pine Needle Drive was the first road created in the mobile home park named Pine Crest Terrace. On our road the single lots are 50' wide with various depths averaging 110'. The 4 lots at the beginning and end of the road were designated as double lots, approximately 100' in width. Over the years, as mobile homes deteriorated (some still abandoned and decaying) modular and stick built homes have been going up, improving the value of the lots and community. While I have not trespassed to measure individual lot setbacks, most new homes appear to be close to the 30' setback. These new homes are not small! Their 30' front yard setbacks allow for adequate off street parking. Surely the Mooney's can hire a good architect to design a large home and a pool that fits their larger lot without infringing on our right to maintain our property value.

Currently my husband Rick Franco is employed at Indian River School District, Georgetown and I work from home. We are the only full timers. Working traditional hours and enjoying year round life here may allow us to see our road differently. We see the "potholes" and try to fix them. We wish for basic things like a sense of privacy, quiet late at night, access to our driveway and mailbox, enjoyable views and low level nighttime lighting. We need trash and delivery trucks, medical and emergency vehicles to be able to get down our street, and this will be particularly problematic for the duration of any home builds, especially the Mooney's construction at the dead end where there is already a parking problem. We welcome new homes that will increase our property value but object to a home that will hem us in and decrease that value, not just of the home itself but our well- being. We planned our home for all the aspects setback requirements are meant to provide. Now we are asking you to please keep the setbacks at 30' for growth to our neighborhood and for future full time residents.

Thank you for the time you take to consider this important decision,


Jodi McLaughlin
717-342-4199

RECEIVED

JAN 13 2023

SUSSEX COUNTY
PLANNING & ZONING

January 12, 2023

Richard Franco

30317 Pine Needle Drive

Ocean View, DE 19970

Sussex County Board of Adjustments; Public Hearing, January 23, 2023

County Council Chambers

2 The Circle PO Box 417

Georgetown, DE 19947

Planning and Zoning Commission,

As a resident of 30317 Pine Needle Drive, I ask that you deny the reduced front yard setback requested by Michael and Robyn Mooney; 30319 Pine Needle Drive, Ocean View DE (Case #12783). The Mooney's request does not align with Code #115-182 which states their setback should be equal to the average setback of buildings on the same side of the street. The Mooney's property is a double lot with approximate 100' of frontage. Two homes on our street (30307 and 30315) were built during this past year and both homes, while on lots with just 50' frontage, adhered to the 30' setback, as have all the 50' lots, excluding one modular that has an open front deck that is slightly less than 30' setback. It is our understanding the reduced setback is desired so the Mooney's back yard can accommodate a 20X40' swimming pool. Surely, a good home designer can design a sufficiently large home including a pool for the standard setbacks of a bulk headed 100X100' lot. There is such a home recently completed on a single lot at 30116 Pinecrest Drive, two lagoons north of Pine Needle Drive.

I believe my home's property value will be adversely affected should the Mooney's build their home 15' in from the front yard property line. Their property line should include part of a cul-de-sac to the dead end of the road; however, it was removed by a prior property owner years ago. If I understand their home design proposal with the 15' setback, the approximate first 33' of their frontage will allow them to place a portion of their home directly along the south side of our driveway. This will create a boxed in affect that will block sunlight to our south west facing windows, light we depend on especially during the winter months. The front extension to their planned home would adversely affect our privacy and visual access and increase noise that is already an issue especially during the summer party season. Flood lights could also infringe on our right to enjoy the privacy of night time on our own property. Considering there is only approximately 15-20' in between the homes, the prominence of the proposed northwest corner "build out" of their home will be completely out of character with the rest of the residences.

A 15' setback at the Mooney's (and most likely no restoration of a cul de sac) will cause even less parking than they already have and there will be increased congestion and stress during their home build. The lack of a turn-around for vehicles causes contention among neighbors and could contribute to

safety issues. The dead end is often used as a parking lot. Our driveway has been damaged by the increasing amount of delivery, trash, contractor and maintenance vehicles who decide to use our driveway when they realize they have no end of road turn around. During construction of the Egner (30315) home to the north of us, our driveway and mailbox were often blocked. Some mail carriers will not get out of their vehicle to deliver if a mailbox is not accessible. If there is not a clear path, garbage trucks will not collect our trash. The construction dumpster and porta-potty location could be in the street.

The inferred meaning of setbacks is to insure comfort to all residents on a street. Currently, my wife Jodi McLaughlin and I are the only full time residents and perhaps that means we see things through a different lens. We work daytime hours during the week, we volunteer in the community, we try to keep our waterway and road free of trash and we appreciate the quiet and environmental importance of our marsh. This is our only home. Residential Property Value includes not just the monetary value but also the sense of safety, security and beauty. We currently enjoy this but will lose it should the Mooney's build out 15' to their front property line. For this reason we ask you to deny their request.

Thank you for your consideration of this extremely important matter,



Richard Franco

717-342-4223

January 13, 2023

Attention Planning and Zoning Director Jamie Whitehouse,

Concerning Board of Adjustment Public Hearing scheduled for January 23, 2023.

Case No. 12783 Michael and Robyn Mooney, Sections 115-42 and 115-182

I respectfully object to a 15 foot variance for the property at 30319 Pine Needle Drive, Ocean View, Delaware. I request the setback remain 30 foot from the property line to provide adequate parking for the Mooney residence as well as enhanced roadway and accessibility for vehicles to get to the end of the road. The lack of a turn-around causes vehicles to stop short of the Mooney residence, which is on the dead end of the road. This abrupt dead end causes trash trucks, cars and other large trucks to attempt to turn around in my driveway as well as other residents across from me. During summer weekends and vacation season the south most section of the road can be very crowded with parked cars that block driveways and mailboxes.

Thank you,



Leonard Pollitt,

302-604-4875

30316 Pine Needle Drive, Ocean View, DE 19970

RECEIVED

JAN 13 2023

SUSSEX COUNTY
PLANNING & ZONING



Proposed home
w/ 15' setback

Mooney Boat ramp

vehicles
no
turn
around
dead end
congestion
(Boat,
trailers,
Delivery
mail
Construction
etc)

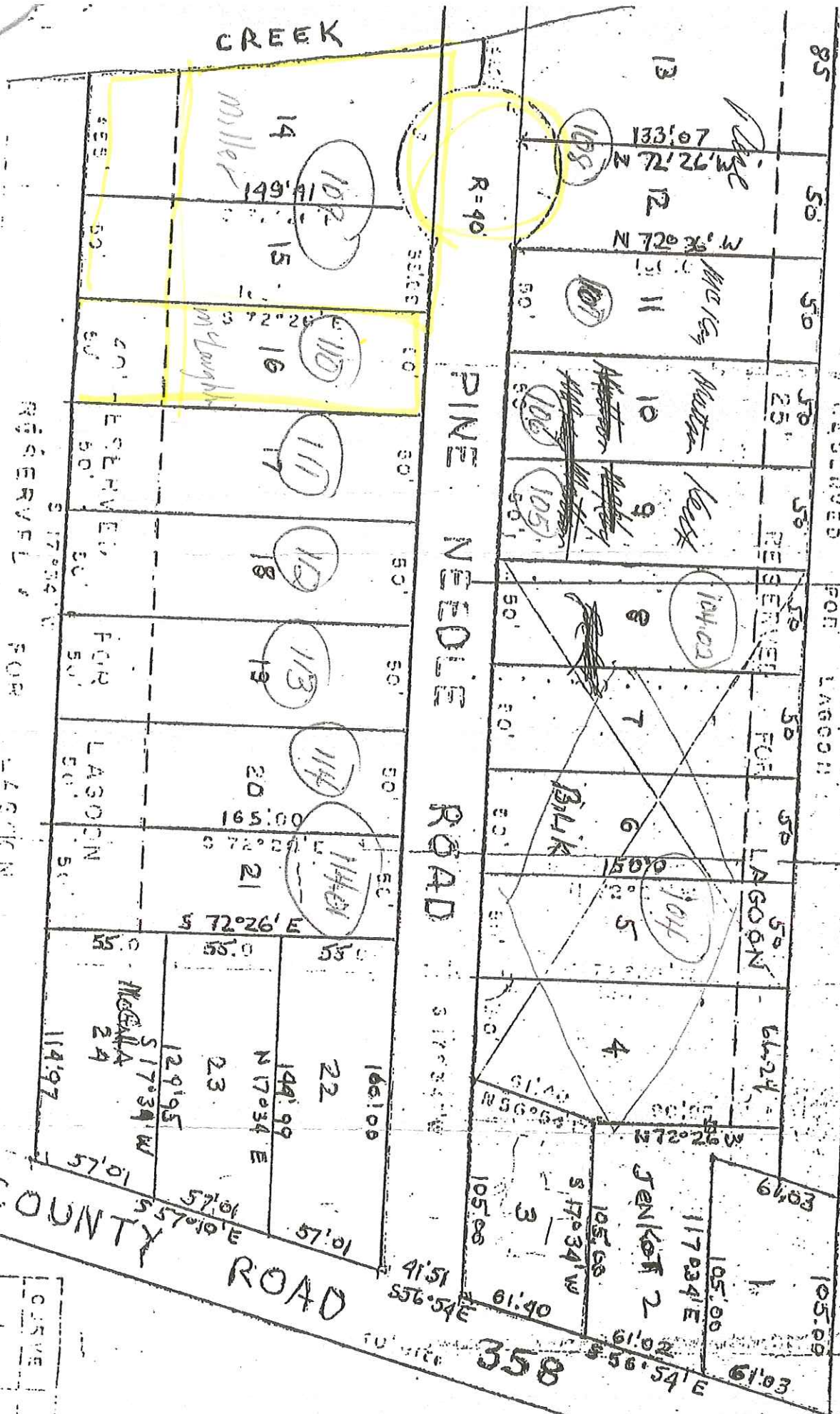
CASE # 12783 : Mooney 30319 Pine Needle Dr

McLaughlin - 30317 Pine Needle Dr

1-23-23
CASE # 12783 - MOONEY

134-9-

678-4773



www.sussexcountyde.gov - Go To Assess - Map Prop ID

112CA
1968

From the desk of:

Alan & Brenda Erdman
15 Trout Lane
Marysville PA 17053

Ann Lepore
Sussex County Planning and Zoning
County Administrative Offices
2 The Circle
P.O.Box 417
Georgetown DE 19947

SUPPORT EXHIBIT

RE: Case No 12784: Theodore and Candy Mills
Variance Address: 201 S Bayshore Drive, Milton DE 19968
Tax Parcel: 235-4.17-5.00

Sussex County Planning and Zoning
Board of Adjustments

This letter is to confirm our support and approval of the requested variance shed setback requirements as noted in the variance application.
We are the property owners located at 101 & 103 Adams Ave, Milton DE 19968.

The Mills shed was constructed at its current location over 25 years ago.
Due to the smaller lot size, moving the shed creates many challenges, which is why they are requesting a variance to minimally move the shed.

Moving the shed to the location shown in the variance application and allowing setbacks of less than the 5' requirement will NOT interfere with any property owners' views &/ or use of their property and will not interfere or prohibit the movement of the natural wildlife living in the area.

Therefore, we are in FAVOR of the variance approval.

Sincerely,

Alan Erdman & Brenda Erdman

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LLOYD HARRISON & JUDITH A. HARRISON

(Case No. 11671)

A hearing was held after due notice on November 16, 2015. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicants are seeking a variance of 18.8 feet from the thirty (30) feet front yard setback requirement for an existing detached garage, a variance of 1.5 feet from the five (5) feet side yard setback requirement for an existing detached garage, a variance of 4 feet from the ten (10) feet side yard setback requirement for a proposed dwelling, and a variance of 9.7 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling. This application pertains to certain real property located between Robinsons Drive and Anna B Street approximately 302 feet east of Fisher Street (911 Address: 38254 Robinsons Drive, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-36.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a survey of the Property dated April 3, 2000, a drawing of the Property, an email from Lloyd Harrison, and a survey dated August 28, 2015.
2. The Board found that the Office of Planning & Zoning received had not received any correspondence in support of or in opposition to Application.
3. Lloyd Harrison was sworn in to testify about the Application. Mr. Harrison submitted exhibits to the Board
4. The Board found that Mr. Harrison testified that the Property is located outside of Rehoboth Beach.
5. The Board found that Mr. Harrison testified that the existing dwelling was built in the 1930s and he plans to replace the existing dwelling with a new dwelling.
6. The Board found that Mr. Harrison testified that he purchased the Property in 2000.
7. The Board found that Mr. Harrison testified that Robinsons Drive runs at an obtuse angle. The northeast corner of the proposed dwelling is closer to the street than the west side.
8. The Board found that Mr. Harrison testified that Anna B Street, which borders the rear of the Property, is a dead end street. The garage is 26.5 feet from the edge of the pavement on Anna B Street.
9. The Board found that Mr. Harrison testified that his lot is a through lot.
10. The Board found that Mr. Harrison testified that the Property is unique due to the angle of the front property line and the age of the dwelling.
11. The Board found that Mr. Harrison testified that the Property is a small, narrow lot.
12. The Board found that Mr. Harrison testified that the dwellings on the Robinsons Drive are built parallel to the side property lines and the front of the existing dwellings on Robinsons Drive align in a step fashion down the angular street.
13. The Board found that Mr. Harrison testified that the existing dwelling has a basement, which houses the furnace, hot water tank, laundry and storage area.

14. The Board found that Mr. Harrison testified that the basement creates a unique issue since very few houses have basements in that area.
15. The Board found that Mr. Harrison testified that the variances are necessary to enable reasonable use of the Property.
16. The Board found that Mr. Harrison testified that the variances will improve the safety of the dwelling and will not alter the essential character of the neighborhood.
17. The Board found that Mr. Harrison testified that the existing garage has been on the lot for many years. The garage is of masonry construction and cannot be made to conform without destroying it. There will be no changes to the existing detached garage.
18. The Board found that Mr. Harrison testified that the narrow lot and angled street were not created by the Applicants. The location of the existing dwelling and garage were also not created by the Applicants.
19. The Board found that Mr. Harrison testified that the new dwelling will blend into the character of the neighborhood.
20. The Board found that Mr. Harrison testified that the variances are the minimum variances to afford relief.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. 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 quite small and narrow as evidenced by the survey. The portion of the lot bordering along Robinsons Drive is also unique as the eastern side of the Property is approximately 9 feet shorter than the western side of the Property. The unique size and shape of the Property has created a limited buildable area available to the Applicants and have created an exceptional practical difficulty for the Applicants who seek to replace an existing home and to retain a garage on the lot. This difficulty is further exacerbated by the fact that the Property is a through lot which further limits the building envelope.
 - b. 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 Applicants seeks to retain a garage and to replace a dwelling of reasonable size but are 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 garage to remain and for a reasonably sized house to be constructed on the Property. The garage has been in its current location for many years. It is unlikely that the garage can be moved into compliance without great expense, if at all. The new dwelling will be in largely the same location as the current dwelling which was placed on the lot in the 1930s. The Board is convinced that the size, shape, and location of this dwelling and garage are reasonable, which is confirmed when reviewing the survey provided by the Applicants.
 - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the unusual size and shape of the Property. The unique lot size and shape 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. Furthermore, the garage and original dwelling were placed on the Property by a prior owner and have been in their present location for many years. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created the lot's unique characteristics and by the placement of the original dwelling and garage by a prior owner.

- d. 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 dwelling will have no effect on the character of the neighborhood. The garage and dwelling have been on the Property for many years. Despite the longstanding location of the garage and dwelling, no complaints were noted in the record about the location of the garage and dwelling. The new dwelling will be similar in location to the prior dwelling and should enhance the appearance of the neighborhood. Review of the record indicates that the location of these structures is consistent with others in the neighborhood. Furthermore, 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.
- e. 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 construct a reasonably sized dwelling on the Property and to retain the garage on the lot.

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 were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date January 5, 2016

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LLOYD HARRISON

(Case No. 12449)

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 front yard setback and maximum fence height requirements.

Findings of Fact

The Board found that the Applicant is requesting a variance of 17 feet from the thirty (30) feet front yard setback requirement from Anna B Street for a swimming pool and a variance of 2.5 feet from the maximum fence height requirement of 3.5 feet for a fence. This application pertains to certain real property that is a through lot located on the southeast side of Robinsons Drive approximately 620 feet southwest of Silver Lake Drive (911 Address: 38254 Robinsons Drive, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-36.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, photographs, a survey of the Property dated April 3, 2018, a drawing of the proposed pool location, a Power Point presentation, 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 and two letters in opposition to the Application.
3. The Board found that Lloyd Harrison was sworn in to testify about the Application.
4. The Board found that Mr. Harrison testified that he seeks to build a swimming pool with a fence adjacent to his garage on the side of the Property near Anna B Street.
5. The Board found that Mr. Harrison testified that the Property is location in the "Forgotten Mile" in Sussex County.
6. The Board found that Mr. Harrison testified that the Property is unique as it is one of 3 lots that are considered through lots and that the other two lots have pools along Anna B Street.
7. The Board found that Mr. Harrison testified that he considers Robinson Drive the front yard and Anna B Street, which is a dead-end street, as the rear yard and that Anna B Street comes to a dead-end approximately 94 feet from the Property.
8. The Board found that Mr. Harrison testified that the front of the house crosses the lots at an oblique angle shortening one side of the property by 9.07 feet.
9. The Board found that Mr. Harrison testified that the garage measures 22 feet by 26 feet and has been on the lot since the 1950s.
10. The Board found that Mr. Harrison testified that a geothermal heating / cooling system is located on the west side which leaves a narrow area to place the swimming pool. The well measures approximately 10 feet wide.
11. The Board found that Mr. Harrison testified that the garage is 26.5 feet from the edge of paving of Anna B Street and that the garage was built by a prior owner.
12. The Board found that Mr. Harrison testified that the swimming pool cannot be constructed without the variance.
13. The Board found that Mr. Harrison testified that the pool would end 13 feet from the property line and would be 27.5 feet from the edge of pavement of Anna B Street.

14. The Board found that Mr. Harrison testified that the exceptional practical difficulty was not created by the Applicant as the garage was constructed on the lot prior to the current ownership.
15. The Board found that Mr. Harrison testified that the geothermal field further restricts the buildable area.
16. The Board found that Mr. Harrison testified that the variances will not alter the essential character of the neighborhood as the adjacent two properties have swimming pools in the rear of their through lots which border on Anna B Street and those lots have 5 foot tall fences.
17. The Board found that Mr. Harrison testified that the neighboring pools are 22 feet from the road and 16 feet from the road. Those pools were built perpendicular to the side yard but the proposed pool will be built parallel to the side yard.
18. The Board found that Mr. Harrison testified that the variances requested are the minimum variance requests to afford relief without hazarding the garage foundation, the geo-thermal wells and piping, or blocking the rear entrance to the dwelling.
19. The Board found that Mr. Harrison testified that there is no other place to put the pool.
20. The Board found that Mr. Harrison testified that he purchased the Property in 2000 and obtained the variance for the garage.
21. The Board found that Mr. Harrison testified that the pools on the adjacent lots were installed in 2008 on through lots with no garages.
22. The Board found that Mr. Harrison testified that the pool will measure 10 feet by 22 feet and will be 4 feet from the garage and will not affect the foundation of the garage.
23. The Board found that Mr. Harrison testified that he installed the well and he tore down the old house and built a new one in 2017 which was the reason for the prior variance.
24. The Board found that Mr. Harrison testified that he did not want to remove the garage because it is worth more to him than the pool.
25. The Board found that Mr. Harrison testified that the walkway and fence will not affect the well.
26. The Board found that Mr. Harrison testified that there are no visibility issues on Anna B Street.
27. The Board found that staff provided permit history on other lots in the neighborhood.
28. The Board found that no one appeared in support of or opposition to the Application.
29. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application failed to meet the standards for granting a variance. The findings below further support the Board's decision to deny the Application.
 - a. The Applicant failed to prove that the variances sought are necessary for the reasonable use of the Property. The lot is already developed by a dwelling and garage. The garage was built in the 1950s and the Applicant received a variance in 2015 to allow the garage to remain on the lot. Rather than remove the garage and seek to construct the pool in compliance with the Code (or to minimize the need for a variance) the Applicant chose to retain the garage and to construct a pool outside the building envelope. This proposal effectively increases the degree of nonconformity on the lot. The Applicant has not convinced the Board that the pool and fence are needed to reasonably use the lot. Rather, the Applicant has already heavily developed the lot as noted above. The Applicant has also chosen not remove the garage because it is worth more to him than the pool.
 - b. The Board finds that the Applicant is creating his own exceptional practical difficulty by proposing to a construct a pool and fence which does not fit within the building envelope. The Applicant's decision to construct this pool and fence in this location is the reason for the need for the variances and has nothing to do with the size, shape, or condition of the Property. There

is no unusual condition to the Property which has created this difficulty. Rather, the Applicant has chosen to overbuild his property with these structures. The Board notes that variances were granted in 2015 for the dwelling and garage. The garage has been on the lot for over 60 years and the dwelling replaced a prior dwelling on the lot in a similar building envelope as the prior dwelling. While those structures received variances, the structures either existed prior to zoning or replaced prior nonconforming structures. Now the Applicant seeks to expand and further develop his lot while not conforming to the Sussex County Zoning Code. The Applicant's decision to construct this pool and fence in this location on a lot which has been heavily developed is the reason for the need for a variance and has nothing to do with the size, shape, or condition of the Property. The Board was not convinced that the variance requests were the product of a *need*. Instead, the variance requests appear to be the product of a *want* as the Applicant seeks to build the pool and fence as proposed for purposes of convenience, profit, and / or caprice. The Applicant has thus created his own exceptional practical difficulty.

- c. Since the variance is not necessary to enable the reasonable use of the Property, the Board also finds that the variances requested are not the minimum variances necessary to afford relief.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was denied. The Board Members in favor of the Motion to deny were Dr. Kevin Carson, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to deny 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



Sussex County
Building Permit
P.O. Box 589
Georgetown, DE 19947
302-855-7720

Application Number

202201087

Issue Date: 01/26/2022

Expire Date: 01/26/2023

Permit Type: FENCE OUT OF TOWN

Parcel ID	Address	Zone Code
334-20.09-36.00	38254 ROBINSONS DRIVE	MR

Owner Information	Applicant Information
Name: HARRISON LLOYD JUDITH ANN Phone: 410-353-8826	Name: EASTERN SHORE PORCH & PATIO, INC Phone: 302.436.9520

Contractor Information		
Name:	EASTERN SHORE PORCH & PATIO, INC	License Number:
CID:	480	License Exp. Date:
Phone:		Insurance Exp. Date:

Building Information
Proposed Use: MISC COST Construction Type: Estimated Cost of Construction: \$ 5,990 Cannot Occupy More than _____ of Total Lot Area Distance from any Dwelling of other Ownership: _____ Distance from any other Mobile Home or Accessory Structure: _____

Property Information		
Measurements taken from Property Lines		
Front Setback:	30.00 /3.5	Rear Setback: /LINE
Side Setback:	/LINE	Corner Setback: /
Maximum Building Height:	7' MAX	Location Description:
FLOOD ZONE	DODD'S ADDITION LOT 35 BLK F ANNA B ST	
Flood Zone:	XP 354K	
If Initialed, See Attached Flood Plan Construction Review Coastal and Flood-Prone Area Building Requirements.		

Project Description: RESIDENTIAL FENCE OUT OF TOWN

Scope of Work:

114 LINEAR FT WHITE FENCE W/GATES

Permit Details:

Signature of Approving Official

Signature of Owner/Contractor

Building Permit Acknowledgement:

I fully understand the Zoning Requirements of this permit.

I/we the undersigned, acknowledge I/we have read and accept the terms of this Building Permit and shall comply with the rules and restrictions related to this building activity. This permit shall expire one (1) year from the date of issue. This permit may be renewed prior to its expiration date if construction has begun and continued in a normal manner and not discontinued for reasons other than those beyond the permit-holder's control. Grading or surface-shaping of the site shall not be considered as actual construction. I/we further acknowledge, ASSESSORS AND INSPECTORS HAVE A RIGHT TO ENTER AND ACCESS THE PREMISES TO ASSESS AND INSPECT PROPERTY. The owner or owners of these premises do hereby consent to Sussex County Officials' right to enter upon said premises during the construction of which this permit is granted, or within a reasonable time thereafter, for the purposes of assessing and inspecting said property. THE APPROVAL OF THIS PERMIT APPLICATION PERTAINS ONLY TO COMPLIANCE WITH SUSSEX COUNTY ZONING ORDINANCES. IT IS NOT TO BE CONSTRUED AS AN APPROVAL FOR THE REQUIREMENTS OF ANY OTHER GOVERNMENTAL AGENCY, WHICH MAY PERTAIN TO THIS SITE. AND FURTHER, IT IS ACKNOWLEDGED AND UNDERSTOOD THAT THIS PERMIT MAY BE REVOKED BY SUSSEX COUNTY FOR ANY VIOLATION OF THE TERMS OF THIS PERMIT OR OF ANY COUNTY, STATE OR FEDERAL LAW APPLICABLE TO THIS PERMIT.

Permit Number

BP-174109

TOTAL FEES:

\$ 37.48



Building Description

Total Bedrooms:

Heat Type:

Full Baths:

Half Baths:

Roofing:

Total Rooms:

Exterior Walls:

Basement:

Foundation Type:

Interior Walls:

Fireplace Type:

Flooring:

Air Conditioning: N

Additional Requirement/Restrictions

_____ Accessory Building 900 Square Feet or Greater

No more than four (4) vehicles permitted in structure without a Planning & Zoning Hearing.

_____ Agricultural Storage Structures

Storage only. NO LIVESTOCK PERMITTED.

_____ Campgrounds

Must conform to the location approved by the park.

_____ Farm-Use Permits

Prior to issuance of the Certificate of Occupancy, it must be confirmed that the building will be used for farm use only. Otherwise, the permit will be voided and plans must be submitted to the Building Code Department.

_____ Fences

Fence may only be 3.5' tall along the front property line and from the road back to the mandated front yard setback. Thereafter, fence may be a maximum of 7' tall. On corner lots, the fence may only be 3' tall along the corner fronts and 25' from the intersection of property lines. Fence may be installed on property line.

_____ Parcel Setbacks

All building structures and improvements shall comply with the parcel setback measurement requirements as mandated in the Sussex County Zoning Ordinance. Failure to comply with the parcel setback measurement requirements is a violation.

_____ Pools (Above-Ground)

Must have ladder up and locked at all times when not in use. Pool must be 4' high above grade. If not, a fence is required around perimeter of pool

_____ Pools (In-Ground)

A minimum 4' tall fence must be around the perimeter of the pool. A minimum 3' walkway must be between the pool and fence. Gate must be locked at all times when the pool is not in use.

_____ Pools or Guest Homes

No Cooking facilities of any kind are permitted in the structure. No separate electrical meters are permitted.

_____ Tax Ditch

Property records indicate a State regulated tax ditch appears on this property. All building activity shall comply with the rules and requirements related to State regulated tax ditches and the respective tax ditch easements.

202201087

MAILING ADDRESS
P.O. Box 168
Selbyville, DE 19975
DE (302) 436-9520
MD (410) 352-3091
FAX (302) 436-9525



SHIPPING ADDRESS # 37.48 MHIC #25092
17 Mason Dr.
Selbyville Industrial Park
Selbyville, DE 19975

PROPOSAL

Order No. _____
Date January 11, 2022
Page _____ of _____ pages

www.esvinylproducts.com

NAME Mr. & Mrs. Lloyd Harrison	
STREET	CO
ADDRESS	
CITY, STATE, ZIP	
JOB NAME AND LOCATION 38254 Robinson's Drive	
Rehoboth Beach, De. 19971	
HOME PHONE 410-353-8826	WORK PHONE Lloyd Harrison lloydinmd@gmail.com

DIAGRAM

ESPP is not responsible for damage to sprinkler system.

- WE Propose to furnish & install
- 114 of 54" White Talbot Style Vinyl Fence
1. 5" x 5" posts set 30" to 36" deep in concrete. There will be 2 concrete mounts set near the basement steps.
 2. 2" x 6" bottom rails, and 2" x 3 1/2" top rails. 2 per section set on 6' centers.
 3. 1 3/8" x 1 3/8" pickets with 2" spacing. Pyramid style picket caps, Straight.
 4. (2) 42" matching single gates and (1) matching 10' double gate, all with black, stainless steel hardware.
 5. The 10' Double gate will have post stiffeners inside the 5" hinge posts. The gates will have diagonal gate braces.
 6. New England Post Caps.
 7. The gates will have "Magna-Latch" pool code approved latches.

Customer responsible for HOA approval, ESPP to obtain County Permit

We hereby propose to furnish labor and material – complete in accordance with the above specifications, for the net cash sum of:

(\$5,990.00) Five Thousand Nine Hundred Ninety

(\$2,000.00) deposit with order net cash balance of (\$3,990.00) due on date of installation. PLEASE PAY FOREMAN

The work will be performed in compliance with industry standards and guaranteed against defects in materials and workmanship for one year. This contract embodies the entire understanding between the parties. There are no verbal agreements or representations in connection therewith. Any alterations from the above specifications or estimated quantities involving additional costs is extra to the contract. Determination of property lines is the owner's responsibility except when a survey is purchased through Eastern Shore Porch and Patio, Inc. Eastern Shore Porch and Patio, Inc. is not responsible and will be held harmless for damages to other unmarked buried service lines and obstructions and unavoidable disturbance adjacent to the work. All materials shall remain the property of Eastern Shore Porch and Patio, Inc. until the contract is paid in full. A finance charge of 1 1/2 percent per month will be assessed on past due balance. If balance is not paid upon completion, purchaser agrees to all costs of collection including court costs and reasonable attorney's fees. M.H.I.C. Telephone (301) 333-6310. Our workers are fully covered by Workman's Compensation Insurance.

Eastern Shore Porch & Patio, Inc.

By Bee Spillman

NOTE: This proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____ Seal

Accepted: Date _____

Signature _____ Seal

Amy Hollis

From: Paul E. Maguire <Paul.E.Maguire@hotmail.com>
Sent: Tuesday, January 17, 2023 9:57 AM
To: Planning and Zoning
Cc: LLoyd@Harrison.net
Subject: Case No, 12785 Lloyd & Judy Harrison Fence Variance

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

I have reviewed the facts of this case and support the approval for the fence variance along Anna B for the Harrisons, 38254 Robinson Drive.

Paul E Maguire
38233 Robinson Drive
Rehoboth Beach, DE 19971-2071
paul.e.maguire@hotmail.com

Amy Hollis

From: Paul E. Maguire <Paul.E.Maguire@hotmail.com>
Sent: Tuesday, January 17, 2023 9:57 AM
To: Planning and Zoning
Cc: LLoyd@Harrison.net
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SUPPORT EXHIBIT

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Paul E Maguire
38233 Robinson Drive
Rehoboth Beach, DE 19971-2071
paul.e.maguire@hotmail.com

Amy Hollis

From: Ron Gray <thegrayfox310@gmail.com>
Sent: Wednesday, January 18, 2023 9:34 AM
To: Planning and Zoning
Subject: Variance #12785 Lloyd and Judy Harrison

SUPPORT EXHIBIT

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

I,m writing in support of my neighbor, Lloyd and Judy Harrison's variance request to be honored in keeping their existing fence at 4 1/2 feet.

I am one of their three closest neighbors (directly across the street) and look at their property numerous times a day.

The fence is symmetrical as it stands and would be a distraction if it had to be reduced to 3 1/2 feet for 15 feet of the fence's 70 foot length.The straight run of that length is appealing to the eye without a zig zag in the one foot drop.

The Harrison's have taken an old property that was probably built in the 40's - 50's and turned it into a very lovely residence

Again , I am requesting of your committee that the fence be permitted to remain at its existing height.

Thank you for your consideration

Ron Gray
38286 Anna B Street
Rehoboth Beach De 19971
302-227-8010

Amy Hollis

From: Customer Restriction Mail <jntkelleher@verizon.net>
Sent: Wednesday, January 18, 2023 11:59 AM
To: Planning and Zoning
Subject: Variance Case No. 12785

SUPPORT EXHIBIT

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To Whom It May Concern:

We live directly across Anna B Street from the property requesting the variance and look directly at the property.

We have no issues with the existing fence height of 4.6 feet and recommend that the variance be approved.

H. James Kelleher, Jr. and Antoinette B. Kelleher
38302 Anna B Street
Dodds Addition
Rehoboth Beach, DE 19971

To Zoning Permit
Board

I live in Dobb's Addition
And often walk down
Robinson Dr.

I noticed a Variance

SUSSEX COUNTY
PLANNING & ZONING

JAN 19 2023

RECEIVED

Sign in front of 38254 Rd.
I feel it is misleading
as fence is not "proposed," but
is there already. I assume
building permit was approved!!

This variance request should be
approved!

Anonymous resident
of Dobb's Addition

Amy Hollis

From: beth wilson <bw52rb@hotmail.com>
Sent: Thursday, January 19, 2023 3:34 PM
To: Planning and Zoning
Subject: Variance Case No 12785

SUPPORT EXHIBIT

Categories: Amy

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To Whom It May Concern:

My property is on Robinsons Drive where a variance is being heard on 1/23/2023 for a 4 1/2-foot fence on Anna B St in Dodds Addition.

I have no issues with the existing fence height of 4.6 feet and recommend that the variance be approved. The 4 1/2-foot fence is shorter than all the other fences in lots in this area.

Thank you.

Beth Wilson
38187 Robinsons Dr
Rehoboth Beach, DE 19971

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MARCUS DODGE AND SHARON DODGE (Case No. 11038)

A hearing was held after due notice on September 10, 2012. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance of the side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 9.2 feet from the 10 foot front yard setback requirement for a proposed dwelling and air conditioning unit. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Route 54 (Lighthouse Road) northwest of Blue Teal Road, being Lot 25 Block C Section A within Swann Keys development; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-426.00. After a hearing, the Board made the following findings of fact:

1. Marcus Dodge, Sharon Dodge, and Brett Reilly were present and sworn in to testify about the Application.
2. The Board found that Mr. Reilly testified that he is a representative of the builder of the proposed dwelling.
3. The Board found that Mr. Reilly testified that the lot is 40 feet wide and that the proposed dwelling will measure 26 feet wide.
4. The Board found that Mr. Reilly testified that the variance will allow for a 10 foot driveway and that there are numerous similar variances in the development.
5. The Board found that Mr. Reilly testified that uniqueness of the lot is that it is 40 feet wide and most lots in the development are 50 feet wide.
6. The Board found that Mr. Reilly testified that the variance will enable reasonable use of the Property.
7. The Board found that Mr. Reilly testified that the variance will not alter the character of the neighborhood and that the proposed use will conform to the uses in the neighborhood.
8. The Board found that Mr. Reilly testified that the variance requested is the minimum variance to afford relief.
9. The Board found that Mr. Reilly testified that the Property will have stone between the unit and the property line for low maintenance.
10. The Board found that no parties appeared in opposition to or in support of the Application.
11. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique in size due to its narrowness. The variance will enable reasonable use of the Property. The difficulty was not created by the Applicants because the lot is so narrow. The variance, if granted will not alter the character of the neighborhood. The variance sought is the minimum variance to afford relief. The variance will not impair the uses of neighboring and adjacent properties

The Board approved the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the application was approve. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. No Member voted against the Motion to Approve the Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date September 25, 2012.

Ann Lepore

From: Nicholas Bollinger <npbollinger@yahoo.com>
Sent: Friday, January 20, 2023 7:34 AM
To: Ann Lepore; Planning and Zoning
Cc: mooreprods@aol.com; robin@meederby.com; lewis.patterson34@gmail.com
Subject: BOA case 12787

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Good morning,

I am writing this email on behalf of myself, Nicholas Bollinger, and my wife, Morgan Reilly. We are the owners of 30503 Quillens Point Road. We are located diagonally across the road from Lot 72 in Quillens Point. We strongly OPPOSE both variances proposed by the applicant.

I would like to start off with an analogy. When a chef makes pizza, they decide what type of crust they want to make before they start the pizza. Do they want a traditional round pizza thus making triangular slices, or do they want a Sicilian pizza thus making rectangular slices. You can make a rectangular piece of pizza out of the triangular piece, but you will be throwing away a lot of dough in the process. This being said, the owners of lot 72 should have done their research before purchasing and building on a pizza shaped lot.

Both variances proposed will change the look and feel of the surrounding community. No where on Cedar Neck Road to the north of James Farm is there a 'rear facing deck' facing towards Cedar Neck Road. Constructing a 7 foot fence would close off the property and totally take away the 'open feel' of the surrounding community. Many people from the surrounding roads/communities off of Cedar Neck road enjoy walking Cedar Neck Road to/from the VFW. Constructing a 7 foot fence would take away the water views that can be seen down Apple Court and would cause negative psychological impact.

Response to BOA application:

- #1 - 'Uniqueness of property': The current proposed structure CAN be built without need for a rear facing deck facing towards Cedar Neck Road.
- #2 - 'Cannot otherwise be developed': The current proposed structure CAN be developed without a rear facing deck facing towards Cedar Neck Road. The wording states "There is no possibility that the property can be developed in strict conformity with the provisions of zoning...". Simply put, yes it can be developed and does not need a deck. The proposed drawings already have two decks on the front of the house facing towards apple court.
- #4 - 'Will not alter the character of the neighborhood' - Constructing a 7 foot fence would totally alter the character of the neighborhood. It would take away the open feel that the surrounding properties offer.

We appreciate your attention to this matter.

Regards,

Nick and Morgan

Amy Hollis

From: Derick Moore <mooreprods@aol.com>
Sent: Thursday, January 19, 2023 4:17 PM
To: Planning and Zoning
Cc: robin@meederby.com; lewis.patterson34@gmail.com; npbollinger@yahoo.com
Subject: URGENT Comments re Fwd: BOA Case 12787 - Public Hearing Jan. 23 at 6 pm

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NOTE: These comments are shared by three adjacent neighbors across Cedar Neck Road from the Site Address.

Afternoon,

My wife and I own the property directly across Cedar Neck Road from the Site Address: Lot 72 Quillens Point, Ocean View DE.

Regarding Variance 1. "A variance of 5' be considered along the rear BRL for an elevated deck." We SUPPORT with one additional comment. The word "rear" should be "front" as the property is a pass-through lot with two front yards.

Regarding Variance 2. "A variance to increase the maximum fence height to 7' along Cedar Neck Road. We OPPOSE with additional comments:

1. There are no privacy fences along all of Cedar Neck Road (2 miles) except for the adjacent Lot 71 to the south at 38746 Apple Court.
2. The Lot 71 fence is 6' high and sits approx. 3' inside the right of way (ROW), which is 20' according to DelDot. We believe that the 20' ROW applies to all three pass-through lots in Quillens Point (lots 71, 72, and 73).
3. The Cedar Neck Road ROW on our side - the west side - is 25' according to DelDot, at least for our lot. We don't know why the east side ROW is not 25' - the west side was 20', then 5' was added later.
4. We would consider supporting a lower fence - such as a 4' pool fence - along Cedar Neck Road if setback at least 25' from the center of Cedar Neck Road.

Sincerely,

Derick Moore & Roberta Mee
38641 Wood Lane
Ocean View, DE 19970

202-812-3200

PS - Two neighbors to the south agree with our comments and plan to submit emails by 4 pm January 23, 2023. They are Nick & Morgan Bollinger at 30503 Quillens Point Road and Lewis & Shiela Patterson at 30508 Quillens Point Road. Both properties are across Cedar Neck Road from the Site Address.

-----Original Message-----

From: Ann Lepore <ann.lepore@sussexcountyde.gov>

To: mooreprods@aol.com <mooreprods@aol.com>

Sent: Wed, Jan 18, 2023 3:47 pm

Subject: BOA Case 12792

Good Afternoon Mr. Moore,

Attached, please find the Application for BOA Case 12792 and the Findings of Fact for BOA Case 9733.

Please let me know if I can be of further assistance.

Ann Lepore

Planning Technician

Sussex County Planning & Zoning Dept.

2 The Circle, PO Box 417

Georgetown, DE 19947

302-855-7878



The fee schedule for FY2023 has changed. Please contact the office with any questions.