

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DALEANN AL-HAMAD

Case No. 10760 – 2011

A hearing was held after due notice on April 4, 2011. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson.

Nature of the Proceedings

This is an application for a variance from the front yard setback requirement.

Finding of Facts

The Board found that the Applicant was seeking a variance from front yard setback requirements east of Route 1 (The Coastal Highway), south of Willet Road, Lot S7, Ocean Village. The Applicant was requesting a 16' variance from the required 30' front yard setback for a deck. After a hearing, the Board made the following findings of fact:


1. The Applicant hired a builder to construct a deck, and he did so without a building permit. The resulting deck encroaches by 16'.
2. The Applicant did not recognize an encroachment because the deck does not protrude further than the dwellings on neighboring properties.
3. The Applicant's property is located on a cul-de-sac, making the property oddly shaped. The location of the deck is the only available place for the deck, and it is similar to other decks in the neighborhood.
4. Tom Healy, Chairman of Community's Architectural Review Board, testified in opposition. He pointed out that the deck is the entire length of the house itself, and that the Association had advised the Applicant of the need for a building permit. Mr. Healy also acknowledged that the cul-de-sac resulted in the Applicant's property line being set back further than the neighbors.
5. The Board determined that no side yard setback was necessary.
6. The Board determined that the application generally met the standards for granting a variance. The property is unique in that its location on a cul-de-sac resulted in a setback which is visually different from the Applicant's neighbor, that there is a practical difficulty now that the deck has been constructed, the difficulty was not created by the Applicant, but rather by a contractor who departed without attending to necessary details, that the deck would not alter the essential character of the neighborhood, and that the requested variance was necessary to enable reasonable use of the property and was the minimum necessary to accomplish that purpose.

The Board granted the requested variance.

Decision of the Board

Upon motion duly made and seconded, the application was granted. The Board members voting in favor were: Mr. Callaway, Mr. McCabe, Mr. Mills, Mr. Workman, and Mr. Hudson; voting against – none.

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 May 9, 2011