

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: THOMAS J. HOWARD

Case No. 10784 – 2011

A hearing was held after due notice on April 18, 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 rear yard and side yard setback requirements.

Finding of Facts

The Board found that the Applicant was seeking a variance from rear yard and side yard setback requirements at the southeast intersection of Holland Glade Road and Hebron Road, northeast of Worcester Drive, Lot 230, Canal Point. The Applicant was requesting a 1' variance from the required 10' side yard setback for a proposed outdoor shower, and a 2.5' variance from the required 10' rear yard setback for a proposed deck and porch. After a hearing, the Board made the following findings of fact:

1. The initial plan shown the Applicant for the location of the dwelling showed it as 14' from the property line, which satisfied the Applicant's expectations and plans to build the porch at a later date. The same situation exists with respect to the location for an outdoor shower.
2. Once the construction of the dwelling had been completed, however, it was only 11' from the property line, thereby leaving insufficient room to construct the planned improvements.
3. The Applicant's proposed porch would be 12'x18'. It would be built to the rear of the property, which is adjacent to an existing storm water management pond.
4. Lots on either side of the Applicant are currently vacant.
5. Jane Patchell, the attorney for Canal Point, testified in opposition. She suggested that there was nothing unique about the lot, no unnecessary hardship, and that there was no justification beyond the Applicant's wish to have the larger porch. She also testified that the Development's Board of Review had not yet approved the plan, and did not wish to have a precedent set.
6. The Board determined that a practical difficulty existed by virtue of the construction of the dwelling contrary to what had been originally represented to the Applicant. Had the home been placed as originally represented, the variance would be unnecessary. Therefore, the Board determined that the difficulty was not created by the Applicant, that it was necessary to enable reasonable use of the property, that there would be no adverse effect on the subdivision, and that the variance was the minimum necessary to afford relief.

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 24, 2011.