

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LAWRENCE & HARRIET BATIS

Case No. 10839 – 2011

A hearing was held after due notice on September 26, 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 side yard setback requirement.

Finding of Facts

The Board found that the Applicant was seeking a variance from side yard setback requirements north of Road 58B, west of Bayview Circle West, Lot 194, Bayview Landing. The Applicant was requesting a 3.5' variance from the required 10' side yard setback for an attached shed. After a hearing, the Board made the following findings of fact:

1. The Applicant hired a contractor three years ago to construct a shed. Because the shed was attached to the dwelling, it did not qualify for a 5' setback and created an encroachment.
2. The Applicant's contractor had obtained the building permit, and had agreed to attend the variance hearing on their behalf; however, the contractor did not appear for the hearing.
3. The Board tabled the hearing in order to subpoena the builder to testify.
4. Jerry Schaeffer subsequently appeared and testified on behalf of the Applicant. He explained that he was unable to attend the previous hearing due to family issues. He indicated that he was told the shed only needed a 5' setback, but he did not advise the County that the shed would be attached to the dwelling unlike a more traditional detached structure.
5. The Board determined that the difficulty was not created by the Applicant, but by the contractor. The shed would look no different if it was separated from the house by several inches, and the Board therefore determined that the variance was necessary to enable reasonable use of the property. The shed will clearly not alter the essential character of the neighborhood, and the variance is the minimum necessary to afford relief.
6. The owners association approves of the variance, and no persons appeared in opposition.

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 November 8, 2011.