

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ROBERT & BARBARA KACMARICK

Case No. 10869 – 2011

A hearing was held after due notice on October 3, 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 an appeal of the Director's decision for a front yard average setback and/or a variance from the front yard setback requirement.

Finding of Facts

The Board found that the Applicant was appealing a decision of the Director with respect to the application of the front yard average setback, or, alternatively, a variance from front yard setback requirements east of Route 1 (Coastal Highway), south of Collins Avenue, Lot 13, Indian Beach Surf Club. After a hearing, the Board made the following findings of fact:

1. The Applicant was required by the Zoning Office to apply for a variance for additional construction, based upon its interpretation of §115-182(c) of the Zoning Ordinance. The Director's decision declined to apply the average setback to a new construction addition in the front yard. The average had been established in 1997 prior to construction of the dwelling itself, and the Applicant now wishes to add to the dwelling. The Director's ruling was that the Applicant could utilize the average setback for a new dwelling, but that the original 30' setback was appropriate for additional construction.
2. If the 30' front setback requirement is imposed, the new addition would encroach by 7.3'.
3. The Board determined that the Zoning Office was correctly interpreting the Ordinance, and that new addition was required to comply with the 30' front yard setback.
4. The Board determined that application met the standards for granting a variance. The property was unique in terms of the application of average setbacks, the addition was necessary for reasonable use of the property as it will connect two smaller decks, and that without the variance parking spaces would be lost. The variance will not alter the essential character of the neighborhood, as numerous properties have been able to utilize the average for new dwellings, and the difficulty involved in the situation was not created by the Applicant.
5. No persons appeared in opposition.

The Board denied the appeal, but granted the 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 22, 2011.