

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JE T'AIME RESTORATION, LLC (Case No. 10920)

A hearing was held after due notice on January 9, 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 front yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 23 feet from the 40 foot front yard setback requirement, a variance of 14.4 feet from the 15 foot side yard setback requirement for an existing dwelling, a variance of 5.2 feet from the 15 foot side yard setback requirement for an existing deck, and a variance of 4.95 feet from the 15 foot side yard setback requirement for an existing screened porch. The Applicant has requested that the aforementioned requested variances be granted as it pertains to certain real property located northeast of Road 273 approximately 676 feet southwest of Oranmore Avenue; said property being identified as Sussex County Tax Map Parcel Number 3-34-19.00-6.00. After a hearing, the Board made the following findings of fact:

1. The existing dwelling was built near the property line prior to the creation of the Sussex County Zoning Code.
2. The existing dwelling does not conform to the setback requirements under the Sussex County Zoning Code.
3. The Applicant sought to construct a deck and screened porch onto the dwelling and obtained a building permit from the Sussex County Permitting Office for said construction.
4. The building permit was issued with incorrect setback requirements and the Applicant's builder constructed the deck and screened porch based on the incorrect permit.
5. The deck can encroach five feet into the side yard setback.
6. The Applicant learned of the need for these variances after the Sussex County Zoning Inspector identified the problem when inspecting the site for a Certificate of Compliance.
7. The Property is adjacent to a development which contains a buffer of trees consisting of approximately twenty feet between the Property and the development.
8. Lee Ann Wilkinson and Margaret Stossel of Je T'Aime Restoration, LLC, were present on behalf of the Applicant with Norm Barnett, Esquire, and Aaron Hood, the builder.
9. No persons appeared in opposition to the Application.
10. Five persons appeared in favor of the Application.
11. Based on the findings above and the testimony presented at the public hearing, the Board determined that the application met the standards for granting a variance. The lot is unique because of the pre-existing home pre-dating the Sussex County Zoning Code. The need for a variance was not caused by the Applicant. The Applicant reasonably relied upon the building permit to construct the deck and screened porch. The Applicant would suffer a hardship to bring the property into conformity. The variances sought are the minimum to afford relief and will not alter the character of the neighborhood. The variance is needed to enable reasonable use of the property.

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 application was granted. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against 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.

Revised Date February 9, 2012.