

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DAVID ANDERSON (Case No. 10929)

A hearing was held after due notice on January 23, 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 variances of the rear and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 3.55 feet from the 10 foot side yard setback requirement and a variance of 2 feet from the 10 foot rear yard setback requirement for a proposed dwelling. The Applicant has requested that the aforementioned requested variances be granted as it pertains to certain real property located south of Louisiana Avenue, 420 feet west of North Bayshore Drive; said property being identified as Sussex County Tax Map Parcel Number 2-35-3.16-11.00. After a hearing, the Board made the following findings of fact:

1. David Anderson, Jamie Anderson, and Tim Parker testified on behalf of the Applicant.
2. The Applicant intends to build a house on the Property.
3. The proposed dwelling on the Property will have stairs to access the second floor living area which includes a living room and kitchen.
4. The proposed stairs encroach into the rear and side yard setback areas.
5. The location of the septic system creates a difficulty in complying with the required setbacks because it creates a small building envelope.
6. The Applicant intends to use the stairs as an emergency access if necessary.
7. A variance would not be necessary if the stairs were to access the first floor of the proposed dwelling.
8. The Applicant testified that they cannot reasonably build the home without the variances.
9. No persons appeared in opposition to the Application.
10. Three (3) 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 Property is unique due to the location of the septic system. The difficulty was not caused by the Applicant; rather, it was caused by nature. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The variances sought are the minimum to afford relief and will not alter the character of the neighborhood. The variances are 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 Member 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.

Date February 21, 2012.