

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BRUCE S. LANE AND LESLIE BARRON LANE (Case No. 10930)

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 variance of the front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 20 feet from the 30 foot front yard setback requirement for a proposed pool and deck. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located north of boundary of Henlopen Acres approximately 1,886 feet east of Ocean Drive, being Lot 5 within the North Shores development; said property being identified as Sussex County Tax Map Parcel Number 3-34-8.17-6.00. After a hearing, the Board made the following findings of fact:


1. Randy Burton, a builder, testified on behalf of the Applicants.
2. The Board found that Mr. Burton testified that the plan was to renovate the existing dwelling but that was not feasible. He further testified that the Property is subject to a Delaware Department of Natural Resources & Environmental Control ("DNREC") building line due to its close proximity to tidal water and that this building line limits the Applicants' ability to build on the Property.
3. The Board found that the Applicants intend to build a deck three (3) feet high with a four (4) foot fence around the pool.
4. The Board found that Mr. Burton testified that the Property is unique due to the DNREC requirements, the Property cannot be built in strict conformity without a variance, the proposed variance will not alter the essential character of the neighborhood, the proposed variance will enable reasonable use of the Property, and that the homeowners' association supports the Application.
5. No persons appeared in opposition to or in support of the Application.
6. The Board questioned whether a pool can be built in the front yard and Lawrence Lank, the Director of Planning & Zoning, stated that, in some older communities, the front lot may been determined to be the ocean side of the lot.
7. The Board originally tabled the Application but left open the case so that the Office of Planning & Zoning could research which side of the house is considered the front yard.
8. At the Board's meeting on February 6, 2012, the Board received findings from Mr. Lank that the ocean side of the Property is not considered the front yard.
9. The Board rendered its decision at its meeting on February 6, 2012.
10. Based on the findings above, the testimony presented at the public hearing and the research from the Office of Planning and Zoning, the Board determined that the application failed to meet the standards for granting a variance. The Property is not unique since the ocean side of the house is not considered the front yard. The Property can otherwise be developed. The need for the variance was created by the Applicants and the variance, if granted, would alter the essential character of the neighborhood since there are no other pools in the front yard.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the application was denied. The Board Members to deny the Application were Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted in favor of the Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

Date March 22, 2012.