

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: WYATT F. HAMMOND AND ELIZABETH A. HAMMOND**

**(Case No. 10942)**

A hearing was held after due notice on February 20, 2012. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances of the front yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 7 feet from the 10 foot side yard setback requirement and a 25 foot variance from the 30 foot front yard setback requirement for a proposed dwelling and cantilevered deck. The Applicants have requested that the aforementioned requested variances be granted as it pertains to certain real property located east of Route 16 (Broadkill Road) east of Bay Front Road, being Lot 49 Block 12 within Broadkill Beach development; said property being identified as Sussex County Tax Map Parcel Number 2-35-4.17-109.00. After a hearing, the Board made the following findings of fact:

1. Wyatt Hammond and Bob Nash testified on behalf of the Applicant. Mr. Nash is a surveyor who has experience with the Property.
2. Mark Dunkle, Esquire, appeared on behalf of the Applicant.
3. The Board found that the Applicant, through counsel, submitted an executive summary which outlines reasons for granting these variances.
4. The Board found that the Applicant applied for and received approval for a 19.9 front yard setback variance, a 7.2 foot side yard setback variance, and a 6.9 foot side yard variance in 2009.
5. The Board found that the Applicant testified that the original home was destroyed in a storm and he has been working with the Department of Natural Resources & Environmental Control ("DNREC") to receive approvals to place a new dwelling on the Property.
6. The Board found that the proposed dwelling is approximately 2,000 square feet and approximately 1,000 square feet smaller than the dwelling proposed in 2009.
7. The Board found that the Applicant testified that approximately 50% of the buildable area has been eliminated by DNREC due to the change in the Mean High Water Line and the Applicant is unable to build a dwelling within the setback requirements due to the change in the Mean High Water Line.
8. The Board found that the Applicant testified that the proposed dwelling is in the design phase and the proposed deck may be removed to allow for an elevator.
9. The Board found that the Applicant was unable to build on the Property after receiving approval for the 2009 variance requests because different arms of DNREC could not agree on how to handle the Property. The Applicant testified that this dispute has been resolved to DNREC's satisfaction.
10. The Board found that the Applicant testified that there will be a septic holding tank on the Property.
11. No persons appeared in opposition to the Application.
12. Five (5) persons appeared in support of the Application.
13. The Board received one (1) letter in opposition to the Application.
14. 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

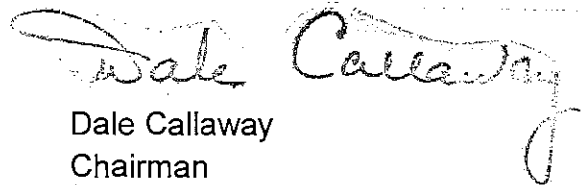
variance. The Property is unique due to the Mean High Water Line restriction. The difficulty was not caused by the Applicant. The variances sought are the minimum to afford relief and will not alter the essential character of the neighborhood. The variances are needed to enable reasonable use of the 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. 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 March 22, 2012.