

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOHN MCMAHAN (Case No. 10946)

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 a variance of the front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.3 feet from the 30 foot front yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located northeast of Road 619 (Old Shawnee Road) south of Turtle Hill Road, being Lot 35 within the Holly's development; said property being identified as Sussex County Tax Map Parcel Number 1-30-3.00-339.00. After a hearing, the Board made the following findings of fact:

1. Edward Justiniano testified on behalf of the Applicant.
2. The Board found that Mr. Justiniano testified that the house was built in 2004 and surveyed at that time but a problem with the front yard setback was not discovered until the Property was surveyed in 2011.
3. The Board found that Mr. Justiniano testified that the original survey mistakenly showed the location of the dwelling to be in compliance with the front yard setback requirements and a Certificate of Compliance was issued based on the original survey.
4. The Board found that Mr. Justiniano testified that the porch was built slightly into the front yard setback and that the house would have to be significantly altered in order to meet the setback requirements.
5. The Board found that the Property is located on a cul-de-sac in the Holly's development.
6. No persons appeared in opposition to or in support of the Application.
7. The Board tabled its decision on this Application until its meeting on March 5, 2012.
8. At the March 5, 2012, meeting, the Board discussed this case. Mr. John Mills, who was not in attendance at the February 20, 2012, meeting, advised the Board that he had listened to the audio tapes of the February 20, 2012 hearing and reviewed the documents in the public record.
9. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the application met the standards for granting a variance. The Property is unique due to the odd shape of the lot and the location of the cul-de-sac. The difficulty was not caused by the Applicant but by the surveying error in 2004. The variance sought is the minimum to afford relief and will not alter the essential character of the neighborhood as the dwelling has been on the Property in this location since 2004. 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 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 April 3, 2012.