

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

### **IN RE: THOMAS W. HUFF AND MELINDA L. HUFF (Case No. 10952)**

A hearing was held after due notice on March 19, 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 rear yard setback requirement.

#### Findings of Fact

The Board found that the Applicants were seeking a variance of 15.7 feet from the 20 foot rear yard setback requirement for an existing detached garage. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Road 88 (Cave Neck Road) approximately 400 feet west of Front Street; said property being identified as Sussex County Tax Map Parcel Number 2-35-20.00-44.00. After a hearing, the Board made the following findings of fact:


1. William Schab, Esquire, presented the Application on behalf of the Applicants.
2. The Board found that Thomas Huff testified that the Applicants purchased the Property in June 2005 and obtained a survey at that time but no one pointed out to them that there was an encroachment on the Property.
3. The Board found that Mr. Huff testified that the Applicants have moved to Massachusetts and must sell the Property and learned of the encroachment when a survey obtained prior to the consummation of the sale of the Property showed the encroachment. Mr. Huff further testified that a contract of sale was terminated due to the encroachment and the Applicants immediately applied for the variance.
4. The Board found that Mr. Huff testified that another potential sale of the Property is contingent on the approval of the Application.
5. The Board found that Mr. Huff testified that the Applicants did not build the detached garage and it would be impractical to move the garage.
6. The Board found that Mr. Huff testified that the adjacent property owner has no objection to the Application.
7. The Board found that the Applicants submitted pictures of the Property and a letter from their attorney to the public record.
8. The Board found that no parties appeared in opposition to or in support of the Application.
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 variance will enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood and is the minimum variance to afford relief. The need for the variance was not created by the Applicants and it would pose a hardship to move the garage.

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 17, 2012