

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

### IN RE: RON WILKENS (Case No. 10988)

A hearing was held after due notice on June 4, 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 front yard setback requirement.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 10 feet from the 30 foot front yard setback requirement for a proposed dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Route 5 (Indian Mission Road) north of Salt Grass Road, being Lot 304 within Stonewater Creek development; said property being identified as Sussex County Tax Map Parcel Number 2-34-17.00-679.00. After a hearing, the Board made the following findings of fact:

1. Ron Wilkens appeared at the hearing on behalf of the Application.
2. The Board found that Mr. Wilkens testified that he has been a builder in the community since 2006.
3. The Board found that Mr. Wilkens testified that a drainage ditch is located on the Property and that the drainage ditch impacts the building envelope on the Property.
4. The Board found that Mr. Wilkens testified that he is not permitted to alter the drainage ditch in any way.
5. The Board found that Mr. Wilkens testified that the ditch creates a uniqueness to the Property.
6. The Board found that Mr. Wilkens testified that the initial site plan of the development did not show the drainage ditch.
7. The Board found that Mr. Wilkens testified that the proposed dwelling will not alter the character of the neighborhood.
8. The Board found that Mr. Wilkens testified that the owners wish to construct a one-story dwelling due to their age but that a two (2) story model would fit within the building envelope on the Property.
9. The Board found that Mr. Wilkens testified that the drainage ditch impacts 3 other lots in the development.
10. The Board found that Mr. Wilkens testified that the proposed dwelling fits with the character of the neighborhood.
11. The Board found that Mr. Wilkens submitted a copy of the site plan.
12. The Board found that Michele Vitiello testified in opposition to the Application. Mr. Vitiello testified that he lives across the street from the proposed dwelling and that he is concerned that the variance will set a precedent.
13. The Board found that Mr. Vitiello testified that in order to construct a deck without a variance on his property, he turned the dwelling to better fit on the lot.
14. The Board found that Mr. Vitiello testified that he is concerned for the existing front yard swale and what type of drainage problems this will create by moving the dwelling forward on the lot.
15. The Board found that Ron Wilkens testified that Gemcraft Homes did not create the development and that he is unaware of any drainage issues in the development.
16. The Board found that three parties appeared in support of the Application.
17. The Board found that one party appeared in opposition to the Application.

18. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application failed to meet the standards for granting a variance. The Property can otherwise be developed. The proposed dwelling can be turned to comply with the setback requirements. The dwelling was an approved RPC and the developer should have addressed the drainage ditch concerns at the time of the development.

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 voting to deny the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. Mr. Brent Workman voted against the motion to deny the Application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

Date July 3, 2012