

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

**IN RE: MICHAEL N. HAMILTON AND SUSAN M. HAMILTON (Case No. 11001)**

A hearing was held after due notice on July 2, 2012. The public record was left open and a second hearing was held on July 16, 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 variances of the side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 1.1 feet from the required 5 foot side yard setback requirement for a detached garage and a variance of 0.8 feet from the required 10 foot side yard setback requirement for a pump house. The Applicants have requested that the aforementioned requested variances be granted as it pertains to certain real property located north Road 353 (Burbage Road) south of Bowman Lane, being Lot 11 within Sherwood Acres development; said property being identified as Sussex County Tax Map Parcel Number 1-34-15.00-64.01. After a hearing, the Board made the following findings of fact:

1. Manaen Robinson, Esquire, appeared on behalf of the Applicants and presented the Application to the Board.
2. The Board found that Mr. Robinson stated that the Applicants purchased the Property in January 2012 and that a survey completed for settlement showed encroachments into the setback areas.
3. The Board found that Mr. Robinson stated that the structures would have to be destroyed in order to comply with the setback requirements.
4. The Board found that Mr. Robinson stated that the lot is narrow in size and a large portion is wooded.
5. The Board found that Mr. Robinson stated that the structures have been on site for approximately 30 years.
6. The Board found that Mr. Robinson stated that the variances will enable reasonable use of the property.
7. The Board found that Mr. Robinson stated that the variances, if granted, will not alter the character of the Property.
8. The Board found that Mr. Robinson stated that the difficulty was not created by the Applicants as the encroachments existed at the time of the purchase.
9. The Board found that Mr. Robinson stated that the variances sought are the minimum variances necessary to afford relief.
10. The Board found that no parties appeared in opposition to or in support of the Application at the July 2<sup>nd</sup> hearing.
11. The Board received a letter from a neighbor in opposition to the Application.
12. Since the Applicants were not present to affirm the presentation of Mr. Robinson, the Board voted to leave the public record open until the Board's next hearing so that the Applicants could appear and testify before the Board.
13. On July 16, 2012, Michael Hamilton appeared with Mr. Robinson to testify before the Board about the Application.
14. The Board found that the Applicant testified that he listened to the audio of Mr. Robinson's presentation before the Board and affirmed Mr. Robinson's presentation as true and correct.
15. The Board found that the Applicant testified that the difficulty was not created by the Applicants.

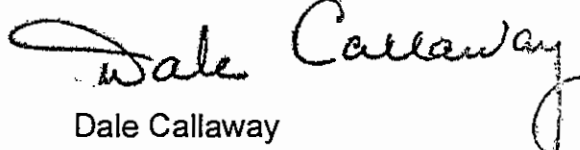
16. The Board found that the Applicant testified that the structures would have to be torn down in order to comply with the setback requirements.
17. The Board found that the Applicant testified that the variance will enable reasonable use of the Property.
18. The Board found that the Applicant testified that the Applicants will suffer a hardship if the Application is denied.
19. The Board found that the Applicant testified that the variance will not alter the character of the neighborhood.
20. The Board found that the Applicant testified that the proposed variance is the minimum variance to afford relief.
21. The Board found that the Applicants submitted two (2) letters in support of the Application.
22. The Board found that five persons appeared in support of the Application and that no persons appeared in opposition of the Application at the July 16<sup>th</sup> hearing.
23. 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 need for the variance was not created by the Applicant. The variance is necessary to enable reasonable use of the Property. The variance is the minimum variance to afford relief.

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 August 7, 2012.