

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JANET STENNER AND WILLIAM STENNER (Case No. 11002)

A hearing was held after due notice on July 2, 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 9 feet from the required 10 foot side yard setback requirement for an HVAC unit. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Route 54 (Lighthouse Road) east of Grant Avenue, being Lot 5 within Cape Windsor development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.14-27.00. After a hearing, the Board made the following findings of fact:

1. William Stenner and Donald Esch appeared at the hearing and testified on behalf of the Application.
2. The Board found that Mr. Esch testified that he was the builder of the dwelling located on the Property and that the Board previously approved a variance for the dwelling in December 2011.
3. The Board found that Mr. Esch testified that the Applicants were unaware at that time that the location of the HVAC unit would also create need for a variance, and that there are similar issues with both neighboring properties.
4. The Board found that Mr. Stenner testified that the narrowness of the lot makes it unique; that to move the HVAC unit to the other side would interfere with the parking and be very costly.
5. The Board found that Mr. Stenner testified that the variance will enable reasonable use of the Property.
6. The Board found that Mr. Stenner testified that it will not alter the character of the neighborhood.
7. The Board found that Mr. Stenner testified that the location of the HVAC unit enhances the neighborhood.
8. The Board found that Mr. Stenner testified that the difficulty was not created by the Applicant.
9. The Board found that Mr. Stenner testified that it is the minimum variance to afford relief.
10. The Board found that Mr. Stenner testified that the requested variance represents the least modification of the regulation at issue.
11. The Board found that no parties appeared in opposition to or in support of the Application.
12. The Board took the case under advisement and discussed the Application later in the meeting.
13. Susan Isaacs of the Planning & Zoning Department advised the Board that Applicant was not aware he needed to include the HVAC unit in his previous variance application and that the survey for that application did not show the location of the HVAC unit.
14. 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 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. Mr John Mills 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