

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

**IN RE: DAWN WALSH (Case No. 11005)**

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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.8 feet from the required 20 foot rear yard setback requirement for an existing detached garage and addition. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Route 1 (Coastal Highway) southeast corner of Bald Eagle road and Fifth Street, being Lots 248, 249, and 250 within Bay Vista development; said property being identified as Sussex County Tax Map Parcel Number 3-34-19.16-72.00. After a hearing, the Board made the following findings of fact:

1. Frances Walsh and Dawn Walsh appeared at the hearing and testified on behalf of the Application.
2. The Board found that Mr. Walsh testified that he was the primary builder on the site and that construction plans were submitted to the Sussex County Building Code Department.
3. The Board found that Mr. Walsh testified that they obtained the building permit in January 2009 and that the building plans were stamped as code compliant.
4. The Board found that Mr. Walsh testified that that they believed the stamp showed compliance of all County Codes and that they applied for a second building permit after the original permit expired.
5. The Board found that Mr. Walsh testified that that they based the construction off of the original plans submitted and approved in January 2009.
6. The Board found that Mr. Walsh testified that they were unaware of the encroachment until they received a non-compliance letter from the Planning & Zoning Department.
7. The Board found that Mr. Walsh testified that the Property is unique in shape and that the original dwelling was built in the 1960s.
8. The Board found that Mr. Walsh testified that that the Property is undersized.
9. The Board found that Mr. Walsh testified that the variance will not alter the character of the neighborhood as the addition fits with the neighborhood.
10. The Board found that Mr. Walsh testified that to bring the structure into compliance would be very costly as they would have to tear down the structure.
11. The Board found that Mr. Walsh testified that the variance sought is the minimum variance to afford relief.
12. The Board found that Mr. Walsh testified that they did not construct the porch on the front of the dwelling.
13. The Board found that Mr. Walsh testified that the variance sought is the least modification of the regulation at issue.
14. The Board found that no parties appeared in opposition to or in support of the Application.
15. 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 is necessary to enable reasonable use of the Property. The variance will not alter the essential

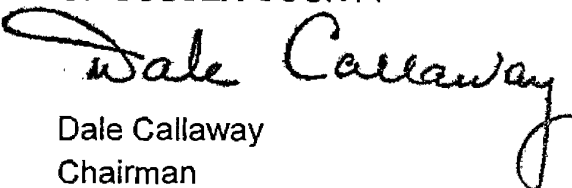
character of the neighborhood and is the minimum variance to afford relief. The variance represents the least modification possible of the regulation in issue. Additionally, the variance is not detrimental to the public welfare and would not impair the use of neighboring properties.

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