

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

**IN RE: ROBERT DE ANDRADE AND MARY DE ANDRADE (Case No. 11017)**

A hearing was held after due notice on August 6, 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 Applicants were seeking a variance of 9.45 feet from the 30 foot front yard setback requirement for a proposed addition. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Route 1 (Coastal Highway) southwest corner of Draper Drive & Venetian Drive, being Lot B-10 within Seabreeze development; said property being identified as Sussex County Tax Map Parcel Number 3-34-20.13-238.00. After a hearing, the Board made the following findings of fact:

1. Robert de Andrade, Mary de Andrade, and Ring Lardner appeared at the hearing and testified on behalf of the Application.
2. The Board found that Mr. Lardner testified that the Property is located within the Seabreeze development and that the development was created in 1954.
3. The Board found that Mr. Lardner testified that the development had restrictions recorded in 1959 that required a twenty (20) foot front yard setback.
4. The Board found that Mr. Lardner testified that the dwelling was constructed in 1997.
5. The Board found that Mr. Lardner testified that the Property is located on a corner lot with streets on two sides thereto.
6. The Board found that Mr. Lardner testified that the Applicants intend to construct an addition to their home but that the proposed addition cannot be built in strict conformity of the setback requirements because the Property abuts a canal. Mr. Lardner testified that the restrictive covenants prevent construction within thirty (30) feet of the canal.
7. The Board found that Mr. Lardner testified that the plans have been approved by the Architectural Review Board of the Seabreeze Property Owners Association.
8. The Board found that Mr. Lardner testified that the proposed addition will not adversely affect the surrounding or adjacent properties.
9. The Board found that Mr. Lardner testified that the proposed addition is in line with the other structures on the street and will not extend any closer to the street than other similar structures in the neighborhood.
10. The Board found that Mr. Lardner testified that it will not alter the character of the neighborhood.
11. The Board found that Mr. Lardner testified that there are no visibility issues from the intersection.
12. The Board found that Mr. Lardner testified that the variance sought is the minimum variance to afford relief.
13. The Board found that Mr. Lardner submitted a letter from the Seabreeze Architectural Review Board, a copy of a deed showing the restrictions, and a large aerial photo of the neighborhood.
14. The Board found that Mr. de Andrade testified that the Applicants purchased the Property in 2002.
15. The Board found that Mr. de Andrade testified that neighbors have structures which are twenty (20) feet from the road.

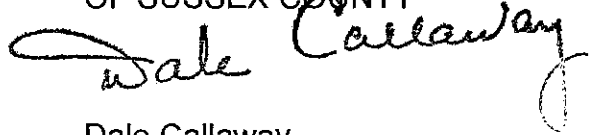
16. The Board found that Mr. de Andrade testified that the restrictive covenants prevent the Applicants from building the addition within their building envelope because they cannot build the addition close to the canal.
17. The Board found that the Honorable Angelo Caputo testified in opposition to the Application.
18. The Board found that Judge Caputo testified that he is the President of the Seabreeze Property Owners Association and that he is a retired Maryland judge.
19. The Board found that Judge Caputo testified that the houses in the development are thirty (30) feet from the road and that there are no structures built at a twenty (20) foot setback from the road.
20. The Board found that Judge Caputo testified that the Architectural Review Board approved the plan but that the Seabreeze Property Owners Association will only approve the addition providing that is no closer to the road than any other houses in the development.
21. The Board found that Judge Caputo submitted a letter from the Seabreeze Property Owners Association.
22. The Board found that Ring Lardner testified that the line on the aerial exhibit indicates the property line and that the property line begins approximately eighteen (18) feet from the road.
23. The Board found that Judge Caputo testified that he thought the property lines started approximately six (6) feet from the road.
24. The Board found that Robert de Andrade testified that the proposed addition will be in the exact line as the other dwellings in the development and that they will adhere to the restrictive covenants.
25. The Board found that no parties appeared in support of the Application.
26. The Board found that one party appeared in opposition to the Application.
27. After discussing the matter, the Board tabled its decision on the Application until August 20, 2012.
28. At its meeting on August 20, 2012, the Board discussed the Application and voted on the Application.
29. 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 Property is unique since it is a corner lot. The variance, if granted, will not alter the character of the neighborhood. The variance sought is the minimum to afford relief.

The Board approved 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 approved. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the motion to approve 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 September 11, 2012