

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PHILIP DOLAN (Case No. 11019)

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 Applicant was seeking a variance of 5 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 east of Route 1 (Coastal Highway) southeast corner of Gum Road & Surf Road, being Lot 16 Block 6 within Sussex Shores, development; said property being identified as Sussex County Tax Map Parcel Number 1-34-13.12-3.00. After a hearing, the Board made the following findings of fact:

1. Philip Dolan and Christopher Pattey appeared at the hearing and testified on behalf of the Application.
2. Mark Dunkle, Esquire, appeared on behalf of the Applicant and presented the Application to the Board.
3. The Board found that Mr. Dunkle stated that the Applicant is requesting a five (5) foot variance from the thirty (30) foot front yard setback requirement for a proposed dwelling.
4. The Board found that Mr. Dunkle stated that the Property backs up to the Atlantic Ocean.
5. The Board found that Mr. Dunkle stated that the dune line restricts the building envelope and has created the hardship.
6. The Board found that Mr. Dunkle stated that the existing dwelling encroaches into the dune restriction line.
7. The Board found that Mr. Dunkle stated that the Delaware Department of Natural Resources and Environmental Control would allow the Applicant to build a new home on the footprint of the existing dwelling but the homeowners association will not approve that placement.
8. The Board found that Mr. Dunkle stated that the Applicant wants to construct a more modern dwelling that is more in character with the neighborhood.
9. The Board found that Mr. Dunkle stated that the proposed dwelling will be placed in alignment with the neighboring dwelling.
10. The Board found that Mr. Dunkle stated that the difficulty was not created by the Applicant.
11. The Board found that Mr. Dunkle stated that the variance is needed to allow proper space for parking and stairways.
12. The Board found that Mr. Dolan affirmed the presentation of Mr. Dunkle as true and correct.
13. The Board found that Mr. Dolan testified that the existing dwelling was built in 1962, that all parking must be on the lot due to homeowner association rules, and that the neighbors do not object to the variance application.
14. The Board found that Mr. Pattey testified that the Applicant is seeking to recapture lost space from the demolition of the existing dwelling by moving living space from the rear of the Property to the front of the Property.
15. The Board found that no parties appeared in support of or in opposition to the Application.

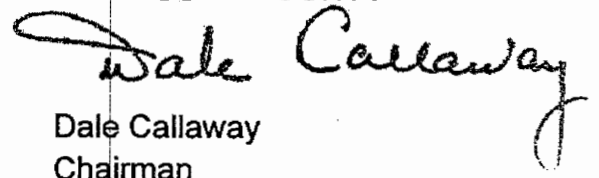
16. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique due to its shallowness and proximity to the dune setback line. There is no possibility the Property can be developed in strict conformity with the Sussex County zoning ordinance. The variance is necessary to enable reasonable use of the Property. The need for the variance was not created by the Applicant. The variance will not alter the essential character of the neighborhood. The requested variance is the minimum variance needed to afford relief. The variance represents the least modification possible of the regulation at issue. The variance will not impair the use of adjacent property.

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. John Mills, and Mr. Norman Rickard. Mr. Jeff Hudson 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