

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOHN FORD (Case No. 11022)

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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 3.1 feet from the 10 foot rear yard setback requirement for an existing enclosed porch. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located southwest of Road 285 (Plantation Road) northwest of Sandcastle Cove, being Lot 261 within Henlopen Landing development; said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-1090.00. After a hearing, the Board made the following findings of fact:

1. John Ford was present and sworn in to testify about the Application.
2. James Fuqua, Esquire, appeared on behalf of the Applicant and presented the Application to the Board.
3. The Board found that Mr. Fuqua stated that the Applicant purchased the Property in March 2011 and that he enclosed a portion of an existing ground level deck.
4. The Board found that Mr. Fuqua stated that the enclosure is no closer to the rear setback line than the deck was to the rear setback line.
5. The Board found that Mr. Fuqua stated that the enclosure is similar to an option the builder offered in the development.
6. The Board found that Mr. Fuqua stated that the Homeowner's Association approved the enclosure, that a building permit was obtained, and that the Applicant hired a contractor to build the room.
7. The Board found that Mr. Fuqua stated that in May 2012 the Applicant received a notice of violation from Planning & Zoning that the structure did not meet the setback requirement.
8. The Board found that Mr. Fuqua stated that the homeowners association and the contractor did not notice the problem prior to construction.
9. The Board found that Mr. Fuqua stated that the Property is adjacent to the open space.
10. The Board found that Mr. Fuqua stated that the Property is unique and that the Property is located on a curve on Sandcastle Road.
11. The Board found that Mr. Fuqua stated that, due to the curve in the road, the Property is only 91 feet deep whereas other lots on the road are 104 feet deep and other lots in the community are 133 feet deep.
12. The Board found that Mr. Fuqua stated that this lot is the only lot in the development where the dwelling and the porch would not fit within the building envelope.
13. The Board found that Mr. Fuqua stated that the Applicant will suffer a hardship if required to remove the porch.
14. The Board found that Mr. Fuqua stated that the variance is necessary to enable reasonable use of the Property.
15. The Board found that Mr. Fuqua stated that it will not alter the character of the neighborhood and that it is the minimum variance to afford relief.
16. The Board found that Mr. Ford, under oath, confirmed the statements by Mr. Fuqua.

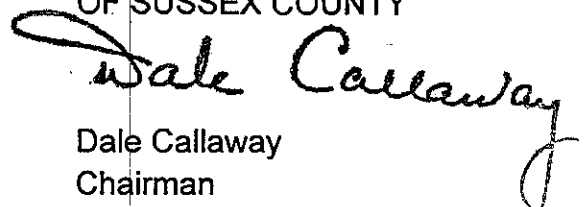
17. The Board found that the Applicant submitted exhibits to support his Application.
18. The Board found that one party appeared in support of the Application.
19. The Board found that no parties appeared in opposition to the Application.
20. The Board found that the Office of Planning & Zoning received fifteen (15) letters in support of the Application and one (1) letter in opposition to the Application.
21. 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 in size. The variance will enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood. The requested variance is the minimum variance needed 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, and Mr. Norman Rickard. 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