

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

**IN RE: ROBERT M. CLARK and JOHN M. STULL (Case No. 11026)**

A hearing was held after due notice on August 20, 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 variances of the rear yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 1.3 feet from the 20 foot rear yard setback requirement for an existing dwelling and a variance of 4.2 feet from the 15 foot rear yard setback requirement for an existing deck with steps. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Road 277 (Angola Road) east of Elmwood Avenue West, being Lot 29 & ½ Lot 28 within Angola by the Bay development; said property being identified as Sussex County Tax Map Parcel Number 2-34-17.08-232.00. After a hearing, the Board made the following findings of fact:

1. Linda Bova was present and sworn in to testify about the Application.
2. Adam Gerber, Esquire, presented the Application on behalf of the Applicants.
3. The Board found that Mr. Gerber stated that the Applicants purchased the Property in 1992 and that the existing dwelling was constructed in the mid 1980's.
4. The Board found that Mr. Gerber stated that the survey shows two (2) iron pipes in the corner marking the Property boundaries and that the pipe used to measure the placement of the dwelling created the encroachment.
5. The Board found that Mr. Gerber stated that the variances are the minimum necessary to afford relief and that the variances are necessary to enable reasonable use of the Property.
6. The Board found that Mr. Gerber stated that the difficulty was not created by the Applicants and that the variances will not alter the character of the neighborhood.
7. The Board found that Ms. Bova testified that she has been a realtor in the area for 15 years and that she is familiar with the Angola by the Bay development.
8. The Board found that Ms. Bova testified that she believes the variances will not alter the character of the neighborhood and that the variances will not impair the uses of neighboring properties.
9. The Board found that Ms. Bova testified that removal of the deck and house would be costly to the Applicants and that encroachment existed prior to 1992.
10. The Board found that Ms. Bova testified that she attributes the iron pipe placement to the encroachment problems.
11. The Board found that Ms. Bova, under oath, confirmed the statements by Mr. Gerber.
12. The Board found that the Applicants submitted a packet of information to the Board.
13. The Board found that the Office of Planning & Zoning received five (5) letters in support of the Application.
14. The Board found that no parties appeared in opposition to the Application.
15. The Board found that one (1) party appeared in favor of 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 because of the two (2) iron pipes in the corner of the Property. The variance will not alter the essential

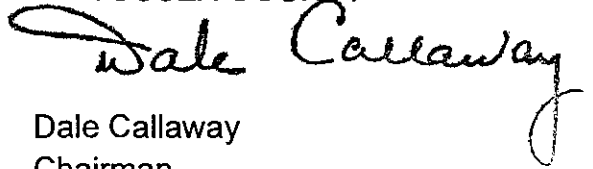
character of the neighborhood. The requested variance is the minimum variance needed to afford relief. The need for the variance was not created by the Applicants.

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 approve. 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.