

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RONALD WORTHINGTON and SUSAN WORTHINGTON (Case No. 11027)

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 front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 12.5 feet from the 30 foot front yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located west of Road 362 (Parker House Road) north of Maple Street, being Lot 19 within Shady Dell Park development; said property being identified as Sussex County Tax Map Parcel Number 1-34-16.00-323.00. After a hearing, the Board made the following findings of fact:

1. Kathleen Keller 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 2012 and that the existing dwelling was placed on the Property in 1998.
4. The Board found that Mr. Gerber stated that the house is a Class C manufactured home which cannot be moved.
5. The Board found that Mr. Gerber stated that the Property is irregular in shape and that the dwelling is located parallel to the street but not parallel to the property line.
6. The Board found that Mr. Gerber stated that the previous owner, Ms. Keller, purchased the Property in 2001.
7. The Board found that Mr. Gerber stated that the encroachment was not discovered at the time Ms. Keller purchased the Property.
8. The Board found that Mr. Gerber stated that a Certificate of Compliance was issued in 1998 for the manufactured home.
9. The Board found that Ms. Keller testified that she purchased the Property in November 2001 after obtaining a survey and title insurance but that she did not learn of the encroachment until right before settlement of the sale of the Property to the Applicants.
10. The Board found that Ms. Keller testified that she installed a screen porch on the dwelling and received a Certificate of Compliance for it as well.
11. The Board found that Ms. Keller testified that she maintained Parcel 322, which is adjacent to the Property, during the period of her ownership.
12. The Board found that Ms. Keller testified that she was not aware that Parcel 322 was a separate parcel.
13. The Board found that Ms. Keller testified that Parcel 322 significantly protrudes further into the road than Parcel 323 and creates a unique situation.
14. The Board found that Ms. Keller testified that the variance will not alter the character of the neighborhood and that the difficulty was not created by the Applicants.
15. The Board found that the Applicants submitted copies of a letter from the Homeowner's Association and copies of the building permit.
16. The Board found that Ms. Keller, under oath, confirmed the statements by Mr. Gerber.

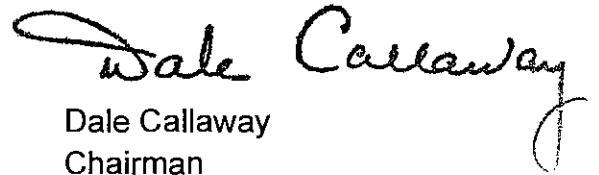
17. The Board found that no parties appeared in opposition to the Application.
18. The Board found that four (4) parties appeared in favor of the Application.
19. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique because of its irregular shape and the fact that the adjoining lot extends further than the Property into the adjacent road. 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. There is no possibility the Property can be developed in strict conformity with the Sussex County Zoning Code.

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