

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JEFF PEARSON (Case No. 11032)

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 a variance of the front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 2.8 feet from the 40 foot front yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Route 16 (Beach Highway) approximately 974 feet east of Route 42 (North Union Church Road); said property being identified as Sussex County Tax Map Parcel Number 2-30-26.00-5.15. After a hearing, the Board made the following findings of fact:

1. Jeff Pearson and Donald Miller were present and sworn in to testify about the Application.
2. The Board found that Mr. Miller testified that he is a land surveyor and that a ten (10) acre parcel was purchased in 2008 to settle a foreclosure.
3. The Board found that Mr. Miller testified that the previous owner (Triumpf, LLC) subdivided the parcel into four (4) lots.
4. The Board found that Mr. Miller testified that a ten (10) foot right-of-way was dedicated for a permanent easement for the Delaware Department of Transportation ("DeIDOT") in order to obtain approval for the subdivision.
5. The Board found that Mr. Miller testified that the location of the septic system prevented the dwelling from being placed further back on the lot.
6. The Board found that Mr. Miller testified that the right-of-way area limited the building envelope.
7. The Board found that Mr. Miller testified that the variance will not alter the character of the neighborhood.
8. The Board found that Mr. Pearson testified that he was issued a permit for the dwelling and the inspector approved the location of the dwelling but had a question as to the setback area.
9. The Board found that no parties appeared in opposition to the Application.
10. The Board found that three (3) parties appeared in favor of the Application.
11. 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 shape and the location of the septic system. 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 need for the variance was not created by the Applicant.

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.