

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

### **IN RE: PHILLIP ZION AND ALLISON ZION (Case No. 11039)**

A hearing was held after due notice on September 10, 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 side yard setback requirement.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 1.05 feet from the 5 foot front yard setback requirement for an existing outside shower. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Road 347 (White Neck Road) east of Skimmer Road, being Lot 68 within Bay Forest Club development; said property being identified as Sussex County Tax Map Parcel Number 1-34-8.00-696.00. After a hearing, the Board made the following findings of fact:

1. Phillip Zion and Allison Zion were present and sworn in to testify about the Application.
2. The Board found that the Applicants submitted a package of exhibits to the Board.
3. The Board found that Mr. Zion testified that the Applicants purchased the Property in 2007 and that the Property contained an existing outside shower at that time.
4. The Board found that Mr. Zion testified that the existing shower was built poorly and needed to be replaced.
5. The Board found that Mr. Zion testified that the Homeowner's Association will not allow an outside shower at any other location on the Property other than its current location.
6. The Board found that Mr. Zion testified that the new outside shower is within the same footprint as the previous outside shower and that the previous outside shower was not attached to the dwelling.
7. The Board found that Mr. Zion testified that the previous shower measures 4 feet x 8 feet.
8. The Board found that Mr. Zion testified that the lot is unique because it is narrow in size.
9. The Board found that Mr. Zion testified that the shower cannot be built in strict conformity with the Sussex County Zoning Code.
10. The Board found that Mr. Zion testified that the difficulty was not created by the Applicants.
11. The Board found that Mr. Zion testified that the variance will enable reasonable use of the Property and that it will not alter the character of the neighborhood as there are similar outdoor showers in the neighborhood.
12. The Board found that Mr. Zion testified that neighbors support this Application.
13. The Board found that Mr. Zion testified that the variance requested is the minimum variance to afford relief.
14. The Board found that no parties appeared in opposition to or in support of the Application.
15. 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 situation is unique since the outside shower cannot be built elsewhere per the Homeowner's Association rules. The

variance will enable reasonable use of the Property. The difficulty was not created by the Applicants. The variance, if granted, will not alter the essential character of the neighborhood. The variance sought is the minimum variance 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 25, 2012.