

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

### IN RE: CHARLES L. WILLIAMS (Case No. 11042)

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 0.4 feet from the 15 foot side yard setback requirement for an existing pole building. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located northwest of Road 291 (Martins Farm Road) approximately 2,800 feet east of Route 5 (Harbeson Road); said property being identified as Sussex County Tax Map Parcel Number 3-34-9.00-1.03. After a hearing, the Board made the following findings of fact:

1. Charles Williams was present and sworn in to testify about the Application.
2. John Brady, Esquire, presented the Application to the Board on behalf of the Application.
3. The Applicant submitted a package of exhibits to the Board in support of the Application.
4. The Board found that Mr. Brady stated that the building was constructed in 2007.
5. The Board found that Mr. Brady stated that the Applicant is disabled due to a work accident.
6. The Board found that Mr. Brady stated that the Applicant sold a portion of his property to neighbor.
7. The Board found that Mr. Brady stated that a Certificate of Compliance was issued for the pole building.
8. The Board found that Mr. Brady stated that the encroachment was discovered when a survey was submitted for a Conditional Use Application.
9. The Board found that Mr. Brady submitted three (3) packs of Saltine crackers to demonstrate the distance of the requested variance.
10. The Board found that Mr. Brady stated that the adjacent property owner on the side of the encroachment has no objection to the Application.
11. The Board found that Mr. Brady stated that the existing manufactured home sits at an angle on the Property.
12. The Board found that Mr. Brady stated that the building was measured from the side of the manufactured home and created the encroachment.
13. The Board found that Mr. Brady stated that the angle of the manufactured home makes the situation unique.
14. The Board found that Mr. Brady stated that the building has been on the lot for five (5) years and shows it does not alter the character of the neighborhood.
15. The Board found that Mr. Brady stated that the variance, if granted, will not impair the uses of adjacent properties.
16. The Board found that Mr. Brady stated that the variance will not be detrimental to the public welfare and that the difficulty was not created by the Applicant.
17. The Board found that Mr. Brady stated that the variance is necessary to enable reasonable use of the Property.
18. The Board found that Mr. Brady stated that the proposed variance is the minimum variance necessary to afford relief.

19. The Board found that Mr. Williams affirmed, under oath, the statements of Mr. Brady. The Board found that Mr. Williams also testified that the pole building has a concrete floor.
20. The Board found that Margaret Foulke testified in opposition to the Application.
21. The Board found that Ms. Foulke testified that she owns the adjacent property.
22. The Board found that Ms. Foulke testified that simple math shows the building would not meet the required setback requirement.
23. The Board found that Ms. Foulke testified that the pole building could have been placed anywhere in the back yard but the Applicant chose to place it at the end of his driveway.
24. The Board found that Ms. Foulke testified that the building exceeds 900 square-feet and she feels the Applicant should have applied for a special use exception to have that size building.
25. The Board found that Ms. Foulke testified that the driveway was placed to accommodate the proposed use of the building.
26. The Board found that Ms. Foulke testified that she has a friend who is a surveyor and, had the Applicant asked, the surveyor could have staked out the location for the building.
27. The Board found that no parties appeared in support of the Application.
28. The Board found that the Office of Planning & Zoning received two (2) letters in opposition to the Application.
29. The Board discussed the Application and tabled this matter until its meeting on September 24, 2012.
30. At its meeting on September 24, 2012, the Board discussed the Application.
31. Susan Isaacs of the Planning & Zoning Office advised the Board that a certificate of compliance was issued in 2008.
32. 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 variance, if granted will not alter the character of the neighborhood. The variance sought is the minimum variance necessary 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 October 16, 2012