

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MATT SHAMENEK (Case No. 11046)

A hearing was held after due notice on September 24, 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 0.5 feet from the 10 foot side 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 southwest of Route 1 (Coastal Highway) west of Locust Lane, being Lot 9 Block U within Sandy Brae development; said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-623.00. After a hearing, the Board made the following findings of fact:

1. Matt Shamenek was sworn in and testified on behalf of the Application.
2. The Board found that the Mr. Shamenek testified that he is purchasing the Property and that a survey completed for settlement showed a side yard setback encroachment.
3. The Board found that the Mr. Shamenek testified that the dwelling was constructed in 1975 and that the lot is one hundred (100) feet wide.
4. The Board found that the Mr. Shamenek testified that all homes in the development seem close to the side yard property lines and that, if the variance is granted, it will not alter the character of the neighborhood.
5. The Board found that the Mr. Shamenek testified that the entire structure would have to be moved to comply with the setback requirements.
6. Judy Dean was sworn in and testified in support of the Application.
7. The Board found that Ms. Dean testified that she is the realtor for the Property and that the Property was acquired by a bank through a foreclosure proceeding.
8. The Board found that Ms. Dean testified that the bank is selling the Property to the Applicant and that the bank had no knowledge of the encroachment.
9. The Board found that Ms. Dean testified that the dwelling was constructed in 1975.
10. The Board found that no parties appeared in opposition to the Application.
11. The Board found that one (1) party appeared in support of the Application.
12. 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 lot is narrow making it unique in size. The variance will enable reasonable use of the Property. The Property cannot be otherwise developed in strict conformity with the Sussex County Zoning Ordinance. The difficulty was not created by the Applicant. 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 October 16, 2012