

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

### **IN RE: JOANN M. DARLINGTON (Case No. 11049)**

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 variances of the front yard and side yard setback requirements.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 3.4 feet from the required ten (10) foot side yard setback requirement for an existing shed, a 0.17 foot variance from the 10 foot side yard setback requirement for an existing dwelling, and a 2.3 foot variance from the 30 foot front yard setback requirement for a proposed deck. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located northwest of Route 16 (Broadkill Road) northwest of Georgia Avenue, being Lot 6 Block H within Broadkill Beach, North Shores development; said property being identified as Sussex County Tax Map Parcel Number 2-35-3.16-59.00. After a hearing, the Board made the following findings of fact:

1. JoAnn Darlington and Robert Nash, a surveyor, were sworn in and testified on behalf of the Application.
2. The Board found that Mr. Nash testified that the existing shed and dwelling were constructed over twenty (20) years ago and that the shed cannot be relocated to comply with setback requirements due to the existing septic system in the rear yard.
3. The Board found that Mr. Nash testified that the proposed first and second floor decks will enable the Applicant to enjoy her view of the Delaware Bay.
4. The Board found that Mr. Nash testified that the proposed size of the first floor deck will allow easier access in and out of her dwelling.
5. The Board found that Mr. Nash testified that the variances will enable reasonable use of the Property.
6. The Board found that Mr. Nash testified that the variances will not alter the essential character of the neighborhood.
7. The Board found that Mr. Nash testified that there are other encroachments in the neighborhood.
8. The Board found that Mr. Nash testified that the Applicant did not create the need for the variance.
9. The Board found that Mr. Nash testified that the variances requested are the minimum variances necessary to afford relief.
10. The Board found that Mr. Nash submitted a side elevation view of the dwelling.
11. The Board found that Ms. Darlington testified that the deck on the first floor of her house is narrow and creates difficulty in opening the door and that she needs the additional deck space in order to move more freely.
12. The Board found that the Office of Planning & Zoning received one (1) letter in opposition to the Application.
13. The Board found that no parties appeared in opposition to or in support of the Application.
14. The Board tabled its decision on this matter until its meeting on October 1, 2012.
15. The Board found that Susan Isaacs of the Office of Planning & Zoning submitted a survey to show the neighbor's property is in compliance.
16. The Board discussed the matter before voting upon the Application.

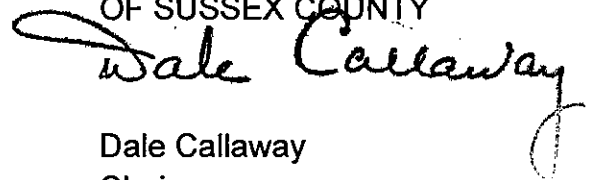
17. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique in size. The variances will enable reasonable use of the property. The variances will not alter the essential character of the neighborhood. The variances sought are 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 November 7, 2012