

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FRANCIS SCHNEIDER AND HENRIANNE SCHNEIDER (Case No. 11067)

A hearing was held after due notice on October 15, 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 Applicants were seeking a variance of 0.5 feet from the required 10 foot side yard setback requirement and a variance of 0.3 feet from the 10 foot side yard setback requirement for an existing dwelling and a variance of 0.2 feet from the required 10 foot side yard setback requirement for an existing second floor deck. The Applicants have requested that the aforementioned requested variances be granted as it pertains to certain real property located west of Route 1 (Coastal Highway) west of Le Pointe Drive, being Lot 25 within Ocean Ridge West development; said property being identified as Sussex County Tax Map Parcel Number 1-34-9.00-1068.00. After a hearing, the Board made the following findings of fact:

1. Francis Schneider was sworn in and testified on behalf of the Application.
2. James Fuqua, Esquire, presented the Application on behalf of the Applicants.
3. The Board found that Mr. Fuqua stated that the Applicants purchased the Property in 1998 and that the dwelling was constructed in 1999.
4. The Board found that Mr. Fuqua stated that the lot is only 70 feet wide and that the dwelling was designed to be 50 feet wide.
5. The Board found that Mr. Fuqua stated that a survey was completed prior to construction to assure the setback requirements were met.
6. The Board found that Mr. Fuqua stated that the dwelling was built at a slight angle and the Applicants feel this angle created the encroachments into the setback areas.
7. The Board found that Mr. Fuqua stated that the Property is unique in shape and that precautions were taken prior to construction.
8. The Board found that Mr. Fuqua stated that the Property cannot be otherwise developed.
9. The Board found that Mr. Fuqua stated that the Applicants have lived on the Property for twelve (12) years.
10. The Board found that Mr. Fuqua stated that the difficulty was not created by the Applicants.
11. The Board found that Mr. Fuqua stated that the variances will not alter the essential character of the neighborhood because the dwelling has been on the Property for twelve (12) years.
12. The Board found that Mr. Fuqua stated that the variances sought are the minimum variances to afford relief.
13. The Board found that Mr. Fuqua stated that the Application was submitted prior to the Administrative Variance Ordinance that was passed by the County Council.
14. The Board found that Mr. Fuqua submitted exhibits including surveys and aerial photographs of the Property.
15. The Board found that Mr. Schneider, under oath, confirmed the statements by Mr. Fuqua.
16. The Board found that no parties appeared in support of or in opposition to the Application.

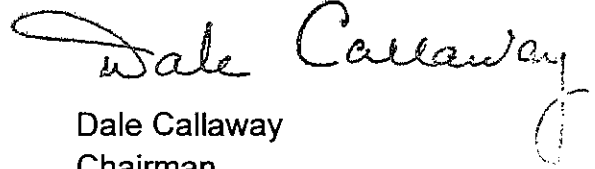
17. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique in shape and that the dwelling was constructed up to the building restriction line. There is no possibility the Property can be developed in strict conformity with the zoning ordinance. The variances will enable reasonable use of the Property. The difficulty was not created by the Applicants. The variances, if granted, will not alter the essential character of the neighborhood. The variances sought are the minimum variances 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