

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: TWININGS LOBSTER SHANTY (Case No. 11080)

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 variances of the rear yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 2.0 feet from the required 5 foot side yard setback requirement for a deck with a roof, a variance of 29.97 feet from the 30 foot rear yard setback requirement for an existing deck with a roof, a 27.2 foot variance from the 30 foot rear yard setback requirement for an existing commercial building, a 0.3 foot variance from the 5 foot side yard setback requirement, a 2.1 foot variance from the 5 foot side yard setback requirement for an existing shed, and a 3.2 foot variance from the 5 foot side yard setback requirement for an existing shed. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located southwest of Route 54 (Lighthouse Road) approximately 3,800 feet east of Road 58 (Bayville Road); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.00-34.00. After a hearing, the Board made the following findings of fact:

1. David Twining was sworn in and testified on behalf of the Application.
2. The Board found that Mr. Twining testified that the building was constructed in 1984.
3. The Board found that Mr. Twining testified that a restaurant has occupied the Property for over twenty five (25) years.
4. The Board found that Mr. Twining testified that the deck has been on the Property for twelve (12) years.
5. The Board found that Mr. Twining testified that he wants to construct a roof over the existing deck to provide cover for diners.
6. The Board found that Mr. Twining testified that he has not done any external renovations to the structure.
7. The Board found that Mr. Twining testified that the difficulty was not created by the Applicant.
8. The Board found that Mr. Twining testified that he is currently using a tarp to provide cover for the diners.
9. The Board found that Mr. Twining testified that this request will not impair the uses of surrounding properties.
10. The Board found that Mr. Twining testified that he leases property to the west of the Property for parking.
11. The Board found that Mr. Twining testified that he purchased the Property in June 2012.
12. The Board found that Mr. Twining testified that he obtained a building permit to extend the deck in May 2012.
13. The Board found that Mr. Twining testified that these variances are the minimum variances to afford relief.
14. The Board found that Mr. Twining submitted a picture and a copy of building permit application.
15. The Board found that no parties appeared in support of or in opposition to the Application.

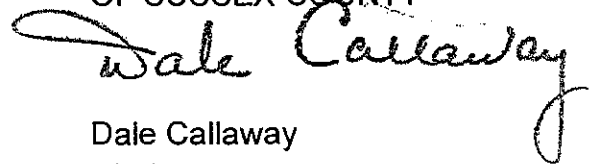
16. The Board took the case under advisement and discussed the Application.
17. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The history of the building creates a unique situation. 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 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