

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GEOFFREY MANNS (Case No. 11086)

A hearing was held after due notice on November 5, 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 4.4 feet from the 10 feet side yard setback requirement for a proposed attached shed, a variance of 5.0 feet from the 10 feet side yard setback requirement for a proposed dwelling and porch, and an 8.0 feet variance from the 10 feet side yard setback requirement for proposed HVAC units. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Route 54 (Lighthouse Road) east of Canvasback Road, being Lot 32 within Swann Keys development; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-391.00. After a hearing, the Board made the following findings of fact:

1. Geoffrey Manns and Darrell Grier were sworn in and testified on behalf of the Application.
2. The Board found that Mr. Grier testified that the Property is located within the Swann Keys development.
3. The Board found that Mr. Grier testified that the lot is only 40 feet wide and that the lot was not created by the Applicant.
4. The Board found that Mr. Grier testified that the development was created as a Mobile Home Community.
5. The Board found that Mr. Grier testified that the variances will not alter the character of the neighborhood.
6. The Board found that Mr. Grier testified that there have been approximately twelve (12) other lots granted similar variances in the development.
7. The Board found that Mr. Grier testified that the variances are not detrimental to public welfare.
8. The Board found that Mr. Grier testified that the proposed dwelling will be 24 feet wide.
9. The Board found that Mr. Grier testified that the Applicant intends to place a shed attached to the proposed dwelling.
10. The Board found that Mr. Grier testified that the attached shed is better suited to last during storms than detached sheds.
11. The Board found that Mr. Grier testified that detached sheds are swept away in flood waters.
12. The Board found that Mr. Grier testified that, during the most recent storm named "Sandy", 3 or 4 detached sheds in the neighborhood were destroyed.
13. The Board found that Mr. Grier testified that the attached shed will be raised to help prevent future water damage.
14. The Board found that Mr. Grier testified that the attached shed is more aesthetically pleasing than a detached shed.
15. The Board found that Mr. Grier testified that there is no access to the attached shed from the interior of the home.
16. The Board found that Mr. Grier submitted photographs of attached sheds and detached sheds.

17. The Board found that Mr. Manns testified that he is tearing down the existing shed due to water damage and others in his neighborhood are doing the same to their sheds.
18. The Board found that Mr. Manns testified that the duct work and air conditioning systems were ruined by the latest storm.
19. The Board found that Mr. Manns testified that the dwelling is no longer liveable.
20. The Board found that Mr. Manns testified that the dwelling will be on the same footprint as the existing mobile home.
21. The Board found that Mr. Manns testified that detached sheds can create problems.
22. The Board found that Mr. Grier testified that the HVAC units can be relocated to comply with setback requirements and that the attached shed would be fire rated and raised above the ground.
23. The Board found that no parties appeared in support of or in opposition to the Application.
24. After taking the case under advisement, the Board tabled the case until its next regularly scheduled meeting on November 19, 2012.
25. At its meeting on November 19, 2012, the Board discussed this case and tabled the case until its next regularly scheduled meeting on December 10, 2012.
26. At its meeting on December 10, 2012, the Board discussed this case and voted on a Motion to approve the Application in part and to deny the Application in part. The Board tied so the Board tabled its decision on the Application until its next regularly scheduled meeting on December 17, 2012.
27. The Board discussed the Application at its meeting on December 17, 2012.
28. 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 in part and failed to meet the standards for granting a variance in part. The Board approved the requested 4.4 feet side yard variance for the proposed attached shed and the 5 feet side yard variance for the proposed dwelling and porch for the following reasons: The Property is unique in size. The variances for the proposed dwelling, porch and attached shed are necessary to enable reasonable use of the Property. The variances will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary to afford relief.
29. The Board denied the requested 8 feet variance from the side yard setback requirement for a proposed air conditioning unit based on the record made at the public hearing and for the following reasons: The difficulty is being created by the Applicant. The air conditioning unit can be placed within strict conformity of the Sussex County Zoning Ordinance.

The Board approved the variance application in part and denied the variance application in part.

Decision of the Board

Upon motion duly made and seconded, the Application was approved in part and denied in part. The Board Members voting to approve the Application in part and to deny the Application in part were Mr. Dale Callaway, Mr. Jeffrey Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion.

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 January 29, 2013.