

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SCOTT M. LESHER and TERESA L. LESHER (Case No. 11092)

A hearing was held after due notice on November 19, 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, rear yard, and side yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 6.4 feet from the 30 foot front yard setback requirement for an existing dwelling, a variance of 2.2 feet from the 30 foot front yard setback requirement, a variance of 0.4 feet from the 10 foot side yard setback requirement, and a variance of 0.4 feet from the 10 foot rear yard setback requirement for an existing detached garage. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Road 280B (Conley Chapel Road) east of Country Lane, being Lot 6A within Chapel View development; said property being identified as Sussex County Tax Map Parcel Number 2-34-10.00-110.01. After a hearing, the Board made the following findings of fact:

1. Scott Leshner and Teresa Leshner were sworn in and testified on behalf of the Application.
2. Meaghan Hudson, Esquire, appeared and presented the Application on behalf of the Applicants.
3. The Board found that Mrs. Hudson stated that the Applicants purchased the Property on September 21, 2012.
4. The Board found that Mrs. Hudson stated that the survey completed for settlement showed encroachments of setback requirements by the existing dwelling and garage.
5. The Board found that Mrs. Hudson stated that there are six (6) points of non-conformity with the structures and that the variances are the minimum variances necessary to bring the structures into compliance.
6. The Board found that Mrs. Hudson stated that the Property is unique due to the location of a cul-de-sac which creates an odd angle on the Property.
7. The Board found that Mrs. Hudson stated that moving the structures into compliance would cost the Applicants approximately \$45,000.00.
8. The Board found that Mrs. Hudson stated that the Property cannot be developed in strict conformity with the Sussex County Zoning Ordinance since the structures already exist.
9. The Board found that Mrs. Hudson stated that the difficulty was not created by the Applicants because the prior owner built the structures.
10. The Board found that Mrs. Hudson stated that the detached garage was built in 2004.
11. The Board found that Mrs. Hudson stated that the variances will enable reasonable use of the Property.
12. The Board found that Mrs. Hudson stated that Sussex County issued a Certificate of Compliance for the detached garage in September 2004 and for the dwelling in January 2010.
13. The Board found that Mrs. Hudson stated that the variances will not alter the essential character of the neighborhood because the area is residential.

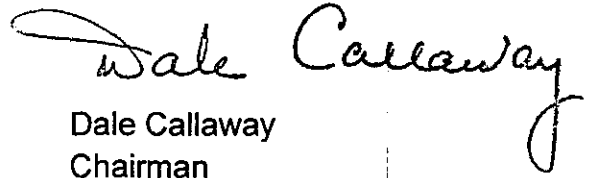
14. The Board found that Mrs. Hudson stated that the variances requested are the minimum variances necessary to afford relief.
15. The Board found that Ms. Hudson submitted exhibits including pictures and letter of support from the Applicants' neighbors.
16. The Board found that Mr. and Mrs. Leshner, under oath, confirmed the statements by Mrs. Hudson.
17. The Board found that four (4) parties appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. The Board found that the Office of Planning & Zoning received three (3) letters in support of the Application.
20. 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 location of the cul-de-sac creates a uniqueness to the Property. The cost to move the structures into compliance creates an exceptional practical difficulty. The difficulty was not created by the Applicants. 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, Mr. Norman Rickard and Mr. Brent Workman. 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 December 11, 2012.