

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LOUIS KARKO and PHYLLIS KARKO (Case No. 11094)

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 1.2 feet from the 18.3 foot average front yard setback requirement for a proposed dwelling and screen porch, a 6.6 foot variance from the 10 foot side yard setback requirement for a proposed dwelling, a 5.4 foot variance from the 10 foot side yard setback requirement for an existing sunroom, a 1.3 foot variance from the 5 foot side yard setback requirement and a 1.1 foot variance from the 5 foot rear yard setback requirement for an existing shed. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located northeast of Route 1 (Coastal Highway) northwest of William F. Street, being Lot 43 within Dodd's Addition development; said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-75.00. After a hearing, the Board made the following findings of fact:

1. Bryan Elliot was sworn in and testified on behalf of the Application.
2. The Board found that Mr. Elliot testified that he is a builder with Integrity Builders.
3. The Board found that Mr. Elliot testified that the Applicants have owned the Property for fifty (50) years and that the Applicants want to demolish the existing dwelling and keep the existing sunroom.
4. The Board found that Mr. Elliot testified that the proposed dwelling will be attached to and line up with the existing sunroom and that lining up the dwelling with the existing sunroom creates an encroachment.
5. The Board found that Mr. Elliot testified that the proposed dwelling is a Beracah-style house.
6. The Board found that Mr. Elliot testified that the lot is small and is only 5,000 square-feet in size.
7. The Board found that Mr. Elliot testified that the variances will not alter the essential character of the neighborhood since all existing dwellings have unique setbacks.
8. The Board found that Mr. Elliot testified that the proposed dwelling is very similar to the footprint of the existing dwelling but the new footprint encroaches less into the side yard setback area.
9. The Board found that Mr. Elliot testified that if the proposed porch was built smaller to comply it would not be useful.
10. The Board found that Mr. Elliot testified that the existing one (1) story dwelling is 800 square-feet in size and that the proposed two (2) story dwelling is 1,812 square-feet in size.
11. The Board found that Mr. Elliot testified that the proposed dwelling could comply with the front yard setback area if it was smaller.
12. The Board found that Mr. Elliot testified that other houses in the neighborhood are closer to the street than the proposed dwelling.
13. The Board found that Mr. Elliot testified that the Applicants plan to retire to the area.

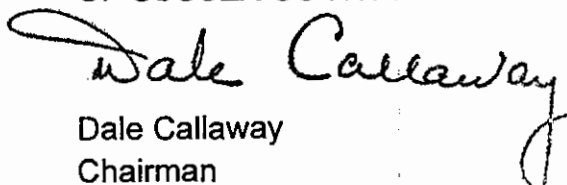
14. The Board found that Mr. Elliot testified that the existing shed is on a concrete pad but could be moved into compliance.
15. The Board found that Mr. Elliot testified that the neighbors support the Application.
16. The Board found that Mr. Elliot testified that placing the dwelling in compliance with the setback requirements and not have it line up with the existing sunroom would look "stupid".
17. The Board found that Mr. Elliot testified that the sunroom was remodeled approximately ten (10) years ago and would be a huge loss to the Applicants if it had to be removed.
18. The Board found that Mr. Elliot testified that the sunroom is located on a permanent foundation.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. The Board found that Mrs. Isaacs stated that many dwellings in the neighborhood are non-conforming and some dwellings are only eleven (11) feet from the front yard property line.
21. After taking the case under advisement, the Board discussed the merits of the Application.
22. 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.
23. The Board found that the existing shed could be moved into compliance with the Sussex County Zoning Code and, thus, the variances sought pertaining to the shed should be denied.
24. The Board found that the remaining portions of the Application should be approved for the following reasons. The lot is unique in size. The variances will enable reasonable use of the Property. The difficulty was not created by the Applicants. 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 in part finding that portions thereof met the standards for granting a variance. The Board denied the application for variances pertaining to an existing shed.

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 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 in part.

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