

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOE PRICE and LESLIE KOLE (Case No. 11095)

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 a variance of the side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 0.2 feet from the 10 foot side yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variances be granted as it pertains to certain real property located northeast of Route 1 (Coastal Highway) southeast of James A. Street, being Lot 34 Block C within Dodd's Addition development; said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-115.00. After a hearing, the Board made the following findings of fact:

1. Bill Wagamon and Joe Price sworn in and testified on behalf of the Application.
2. Douglas Marshall, Esquire, appeared and presented the Application on behalf of the Applicants.
3. The Board found that Mr. Marshall stated that the dwelling was built in 1989.
4. The Board found that Mr. Marshall stated that Lot 34, which is the property in question, and Lot 36, which is the adjacent property, are identical in size and had identical dwellings built on thereon.
5. The Board found that Mr. Marshall stated that the dwelling placed on Lot 36 was placed in compliance with the setback requirements but the dwelling placed on Lot 34 was placed slightly into the setback area.
6. The Board found that Mr. Marshall stated that the Property is narrow which makes it unique.
7. The Board found that Mr. Marshall stated that the variance is necessary to enable reasonable use of the Property.
8. The Board found that Mr. Marshall stated that it would be difficult to bring the Property into compliance.
9. The Board found that Mr. Marshall stated that the difficulty was not created by the Applicants because the Applicants did not build the dwelling.
10. The Board found that Mr. Marshall stated that the variance will not alter the essential character of the neighborhood because the dwelling has been on the Property twenty two (22) years and the size of the variance is so small.
11. The Board found that Mr. Marshall stated that Sussex County issued a Certificate of Compliance for the dwelling in 1990.
12. The Board found that Mr. Marshall stated that a survey completed for settlement showed the encroachment.
13. The Board found that Mr. Marshall stated that the variance is not detrimental to public welfare.
14. The Board found that Mr. Marshall stated that the variance is the minimum variance to afford relief.
15. The Board found that Mr. Marshall submitted exhibits to the Board.
16. The Board found that Mr. Wagamon, under oath, testified that he works for Lingo Real Estate and confirmed the statements by Mr. Marshall.
17. The Board found that no parties appeared in support of or in opposition to the Application.

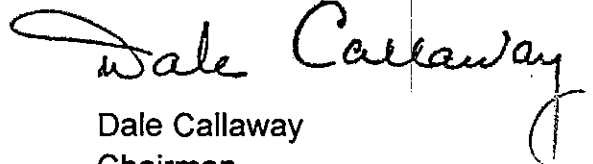
18. The Board found that the Office of Planning & Zoning received a letter from Tim Thompson and Tracy Thompson in opposition to the Application.
19. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The lot is narrow making it unique in size. There is no possibility the Property can be developed in strict conformity with the Sussex County Zoning Ordinance. The difficulty was not created by the Applicants. The variance will enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance 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