

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HAROLD MILLER AND CAROLE MILLER (Case No. 11102)

A hearing was held after due notice on December 10, 2012. The Board members present were: 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 2.1 feet from the 5 foot side yard setback requirement for an existing deck. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Road 362 (Parker House Road) north of Georgia Drive, being Lot 30 Section II within Plantation Park development; said property being identified as Sussex County Tax Map Parcel Number 1-34-19.00-185.00. After a hearing, the Board made the following findings of fact:

1. Howard Miller was sworn in and testified on behalf of the Application.
2. James Fuqua, Esquire, appeared and presented the Application on behalf of the Applicants.
3. The Board found that Mr. Fuqua stated that the Applicants purchased the Property in 2001 and that the previous owner placed the manufactured home on the Property in 1987.
4. The Board found that Mr. Fuqua stated that two (2) decks were constructed in 1997 by the prior owner.
5. The Board found that Mr. Fuqua stated that a survey completed in 2001 shows the decks and encroachment.
6. The Board found that Mr. Fuqua stated that there have been no changes made to the decks by the Applicants.
7. The Board found that Mr. Fuqua stated that a survey was completed in 2012 for settlement and the existence of the encroachments has delayed the sale of the Property by the Applicants.
8. The Board found that Mr. Fuqua stated that a building permit and certificate of compliance were issued for the decks in 1997.
9. The Board found that Mr. Fuqua stated that the situation is unique because the certificate of compliance has been issued.
10. The Board found that Mr. Fuqua stated that the difficulty was not created by the Applicants.
11. The Board found that Mr. Fuqua stated that the variance will enable reasonable use of the Property and that the variance is necessary for continued reasonable use of the Property.
12. The Board found that Mr. Fuqua stated that the variance will not alter the character of the neighborhood because the decks have been in place for fifteen (15) years.
13. The Board found that Mr. Fuqua stated that the variance sought is the minimum variance to afford relief.
14. The Board found that, during his presentation, Mr. Fuqua submitted to the Board a packet of exhibits.
15. The Board found that Mr. Miller, under oath, confirmed the statements by Mr. Fuqua.
16. The Board found that no parties appeared in support of or in opposition to the Application.

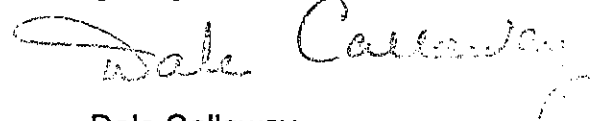
17. The Board found that the Office of Planning & Zoning received one (1) letter in support of the Application.
18. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique since there is a cul-de-sac located adjacent to the Property. The situation is unique due to the issuance of the Certificate of Compliance. The difficulty was not created by the Applicants. 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. 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 January 8, 2013.