

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOHN C. LEAHY AND ADALIA V. LEAHY (Case No. 11103)

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 variances of the side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 4.4 feet from the 5 foot side yard setback requirement for an existing shed, a variance of 2.9 feet from the 10 foot side yard setback for an existing manufactured home, and a variance of 3.25 feet from the 5 foot side yard setback requirement for an existing set of steps. The Applicants have requested that the aforementioned requested variances be granted as it pertains to certain real property located north of Route 54 (Lighthouse Road) east of Blue Bill Drive, being Lot 40 within Swann Keys development; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-186.00. After a hearing, the Board made the following findings of fact:

1. John Leahy was sworn in and testified on behalf of the Application.
2. Ray Tomasetti, Esquire, appeared and presented the Application on behalf of the Applicants.
3. The Board found that Mr. Tomasetti stated that the Applicants purchased the Property in 2012 and that the previous owner purchased the Property in 1983.
4. The Board found that Mr. Tomasetti stated that the manufactured home was placed on the Property in 1983 and that the shed was placed on the Property in 2010.
5. The Board found that Mr. Tomasetti stated that the Planning & Zoning Department contacted the previous owner stating the shed had to be moved since it was on the neighbor's property.
6. The Board found that Mr. Tomasetti stated that the previous owner moved the shed but was not aware of the setback requirements.
7. The Board found that Mr. Tomasetti stated that the previous owner was unaware of any encroachments.
8. The Board found that Mr. Tomasetti stated that the difficulty was not created by the Applicants.
9. The Board found that Mr. Tomasetti stated that the shed is located near the property line.
10. The Board found that Mr. Tomasetti stated that the proposed variances will not alter the character of the neighborhood as there are many similar homes in the community.
11. The Board found that Mr. Tomasetti stated that the shed cannot be moved into compliance.
12. The Board found that Mr. Tomasetti stated that there is no adverse affect to the adjacent neighbors.
13. The Board found that Mr. Tomasetti stated that the variances sought are the minimum variances necessary to afford relief.
14. The Board found that Mr. Tomasetti submitted pictures to the Board.
15. The Board found that Mr. Leahy, under oath, confirmed the statements by Mr. Tomasetti.

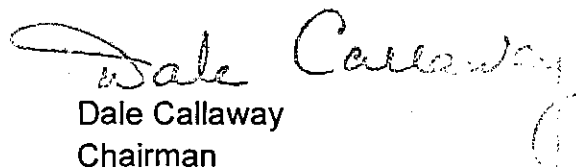
16. The Board found that Mr. Leahy also testified that the shed is located on a concrete slab and that moving the shed forward would not alleviate the problem with the steps and sidewalk.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. Based on the 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 difficulty was not created by the Applicants. The Property is unique in size. The variances will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary 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.