

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHARLES CRICHLEY AND SUSAN CRICHLEY (Case No. 11105)

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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 4.07 feet from the 5 foot rear yard setback requirement for a proposed patio. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Road 299 (Bay Farm Road) north of Marina Bay Circle, being Unit 29 within The Peninsula development; said property being identified as Sussex County Tax Map Parcel Number 2-34-30.00-311.00-Unit 29. After a hearing, the Board made the following findings of fact:

1. Charles Crichley was sworn in and testified on behalf of the Application.
2. The Board found that Mr. Crichley testified that the Applicants propose to construct a patio on the rear of their dwelling and that the patio will include a seating wall.
3. The Board found that Mr. Crichley testified that the proposed seating wall will measure 36 inches in height and will provide extra seating needed on the proposed narrow patio.
4. The Board found that Mr. Crichley testified that the Homeowners Association Architectural Review Committee approved the proposed plan subject to the Applicants obtaining a variance.
5. The Board found that Mr. Crichley testified that the Property has a shallow depth and that the Property is unique since it slopes and has a narrow rear yard.
6. The Board found that Mr. Crichley testified that the dwelling was constructed one (1) foot less deep in order to fit on the lot.
7. The Board found that Mr. Crichley testified that the patio will not pose any safety concerns.
8. The Board found that Mr. Crichley testified that the patio that the variance will not alter the essential character of the neighborhood.
9. The Board found that Mr. Crichley testified that the rear yard is adjacent to seventeen (17) feet of open space.
10. The Board found that Mr. Crichley testified that the open space also slopes towards a pond.
11. The Board found that Mr. Crichley testified that the variance is the minimum variance to afford relief.
12. The Board found that Mr. Crichley testified that Units 28 and 31 are adjacent to the Property.
13. The Board found that Mr. Crichley testified that the owner of Unit 28 supports the Application and that Unit 31 is a vacant lot.
14. The Board found that Mr. Crichley testified that the patio was not an option with the builder when the dwelling was constructed.
15. The Board found that Mr. Crichley testified that the deck is small and the variance is necessary to enable reasonable use.
16. The Board found that Mr. Crichley testified that the patio will not be visible from the street.

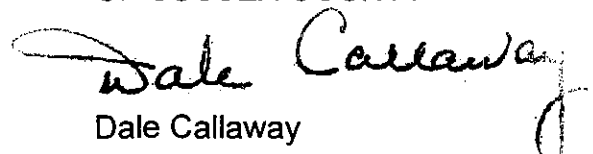
17. The Board found that Mr. Crichley testified that there will be no seating wall near the proposed grill on the deck.
18. The Board found that Mr. Crichley submitted exhibits to the Board.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. The Board took the case under advisement and discussed the case at the end of the agenda.
21. 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 it slopes and is narrow in size. The variance is necessary to enable reasonable use of the Property. 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.