

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ROBERT DAVIS (Case No. 11107)

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 Applicant was seeking a variance of 5 feet from the 10 foot side yard setback requirement for a proposed detached garage. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located west of Route 5 (Oak Orchard Road) south of West James Court, being Lot 76 within Captain's Grant development; said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-634.00. After a hearing, the Board made the following findings of fact:

1. Robert Davis was sworn in and testified on behalf of the Application.
2. The Board found that Mr. Davis testified that the proposed detached garage will measure 24 feet by 32 feet.
3. The Board found that Mr. Davis testified that the existing septic system led to the placement of a previous shed.
4. The Board found that Mr. Davis testified that the Property is now served by County Sewer.
5. The Board found that Mr. Davis testified that he thought the setback requirement was five (5) feet.
6. The Board found that Mr. Davis testified that his neighbor has no objection to the proposed detached garage.
7. The Board found that Mr. Davis testified that the garage will store his truck, car, garden supplies and a workbench.
8. The Board found that Mr. Davis testified that that his neighbor does not object to the Application
9. The Board found that Mr. Davis testified that due to the placement of the existing dwelling and existing trees he will be unable to drive a truck between the dwelling and the detached garage.
10. The Board found that Mr. Davis testified that he has firewood delivered to the Property.
11. The Board found that Mr. Davis testified that there are forty (40) feet high trees along the property line.
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13. The Board found that Mr. Davis testified that there are forty (40) feet high trees along the property line.
14. The Board found that Mr. Davis testified that the garage would not hurt the neighborhood.
15. The Board found that Mr. Davis testified that the dwelling as placed in its location due to the septic system location.
16. The Board found that Mr. Davis testified that the garage could not be placed on the Property without a variance.
17. The Board found that Mr. Davis testified that he cannot attach the garage due to the interior layout of his dwelling and an existing porch on the rear of the dwelling.

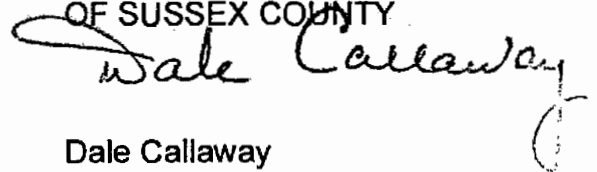
18. The Board found that Mr. Davis testified that the placement of the septic system also makes it difficult to attach the garage.
19. The Board found that Mr. Davis testified that he could not build the garage elsewhere due to the location of the trees.
20. The Board found that Mr. Davis testified that the variance is necessary to enable reasonable use of the Property.
21. The Board found that Mr. Davis testified that the variance will not alter the character of the neighborhood since there are other two (2) car garages in the area.
22. The Board found that Mr. Davis testified that that the variance will represent the least modification of the regulation at issue.
23. The Board found that Mr. Davis testified that the variance is the minimum variance to afford relief.
24. The Board found that Mr. Davis submitted an old survey of the Property to the Board.
25. The Board found that no parties appeared in opposition to the Application.
26. The Board found that one (1) party appeared in support of the Application.
27. The Board tabled its decision of this Application until December 17, 2012.
28. At its meeting on December 17, 2012, the Board discussed this Application. Board Member Dale Callaway advised the Board that he reviewed the public record and listened to the audio tape of the original hearing.
29. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application failed to meet the standards for granting a variance because the difficulty was created by the Applicant.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the Application was denied. The Board Members voting to deny the Application were Mr. Dale Callaway, Mr. Norman Rickard, and Mr. Brent Workman. Mr. Jeff Hudson and Mr. John Mills voted against the Motion to Deny the Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Dale Callaway
Chairman

Date January 13, 2013.