

## **BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

### **IN RE: STEVEN M. ADKINS LAND SURVEYING (Case No. 11110)**

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 front yard setback requirement.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 4.7 feet from the 40 feet front yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Road 224 (Fleatown Road) approximately 1,229 feet west of Road 213 (North Old State Road); said property being identified as Sussex County Tax Map Parcel Number 2-30-19.00-99.01. After a hearing, the Board made the following findings of fact:

1. Steven Adkins and Steven Roode were sworn in and testified on behalf of the Application.
2. The Board found that Mr. Adkins testified that the owner of the Property hired Mr. Adkins' surveying company to survey and subdivide the Property.
3. The Board found that Mr. Adkins testified that the Property was subdivided approximately one (1) year ago.
4. The Board found that Mr. Adkins testified that the actual variance needed is 9.5 feet from the front yard setback requirement due to an existing porch.
5. The Board found that Mr. Adkins testified that the Applicant retained a mason and built the dwelling and that at the time of construction there were numerous stakes on the Property marking the property lines and septic area.
6. The Board found that Mr. Adkins testified that the Applicant measured for the location from the wrong stakes on the Property.
7. The Board found that Mr. Adkins testified that the dwelling on Lot 2 is non-conforming.
8. The Board found that Mr. Adkins testified that the variance, if granted, will not alter the character of the neighborhood.
9. The Board found that Mr. Adkins testified that the Property cannot be otherwise developed.
10. The Board found that Mr. Adkins testified that the Applicant received a temporary certificate of occupancy and permit for the placement of the dwelling.
11. The Board found that Mr. Adkins testified that the variance will not be detrimental to the public welfare.
12. The Board found that Mr. Adkins testified that the variance sought is the minimum variance necessary to afford relief.
13. The Board found that Mr. Adkins testified that the variance sought is the least modification of the regulation at issue.
14. The Board found that Mr. Adkins testified that a temporary Certificate of Compliance has been issued.
15. The Board found that Mr. Adkins testified that the stakes were placed on the Property marking the boundaries in 2010 and that the stakes may have been buried between the time the Property was surveyed and the dwelling constructed.
16. The Board found that Mr. Adkins testified that the dwelling a stick-built house.

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 situation was unique due to the mistake and the fact that the Applicant owns the adjacent property. The Property cannot be developed in strict conformity. The difficulty was not created by the Applicant. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance 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