

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KERRY S. WERTZ (Case No. 11111)

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 feet side yard setback requirement for a proposed attached shed. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located southwest of Route 54 (Lighthouse Road) south of Wilson Avenue, being Lot 19 within Cape Windsor development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-143.00. After a hearing, the Board made the following findings of fact:

1. Kerry S. Wertz and Margaret Wertz were sworn in and testified on behalf of the Application.
2. The Board found that Mr. Wertz testified that he was previously denied a request for a 5.8 feet variance from the 10 feet side yard setback requirement earlier this year and that prior to the last hearing he had just lost his mother-in-law and feels he was unprepared for his hearing.
3. The Board found that Mr. Wertz testified that he has altered his request and is asking the Board to consider his new application.
4. The Board found that Mr. Wertz testified that he is requesting a 5 feet variance for constructing a smaller addition that will no longer be large enough to store a car.
5. The Board found that Mr. Wertz testified that his previous application was for an attached garage.
6. The Board found that 1 party was in support of the Applicant's request for a rehearing.
7. The Board found that no parties appeared in opposition to the Applicant's request for a rehearing.
8. Based on the findings above and the testimony presented at the public hearing and the public record, the Board unanimously determined that the Applicant met the standards a rehearing because the Application substantially differs from the prior Application.
9. The Board found that Mr. Wertz testified that the Property is located in Cape Windsor; that he purchased the Property in 2000.
10. The Board found that Mr. Wertz testified that the dwelling located thereon at that time was uninhabitable.
11. The Board found that Mr. Wertz testified that he tore down the existing structure and built a new dwelling that is smaller than the previous manufactured home located on the Property.
12. The Board found that Mr. Wertz testified that the new dwelling needed significant repair due to severe water damage.
13. The Board found that Mr. Wertz testified that he did not include the addition at the time of his previous variance application for fear he would not have the money to complete that project.
14. The Board found that Mr. Wertz testified that the proposed attached shed will provide much needed storage.
15. The Board found that Mr. Wertz testified that the proposed addition will still allow four (4) cars to park on the Property.
16. The Board found that Mr. Wertz testified that the original dwelling afforded less parking on the Property.

17. The Board found that Mr. Wertz testified that the dwelling is unique because it is so far off of the street which is odd for the Cape Windsor community.
18. The Board found that Mr. Wertz testified that if the addition is not attached, he will lose a parking spot which is an inefficient way to develop the Property.
19. The Board found that Mr. Wertz testified that the Property is located on Assawoman Bay.
20. The Board found that Mr. Wertz testified that the Property is unique since it is only 40 feet wide.
21. The Board found that Mr. Wertz testified that most lots in Cape Windsor are 50 feet wide.
22. The Board found that Mr. Wertz testified that the variance will enable reasonable use of the Property.
23. The Board found that Mr. Wertz testified that the difficulty was not created by the Applicant.
24. The Board found that Mr. Wertz testified that the variance will not alter the character of the neighborhood.
25. The Board found that Mr. Wertz testified that the variance is the minimum variance necessary to afford relief.
26. The Board found that Mr. Wertz testified that all electrical and plumbing in the attached area will be well above ground to avoid flooding problems.
27. The Board found that Mr. Wertz submitted pictures and letters of support to the Board.
28. The Board found that one (1) party appeared in support of the Application.
29. The Board found that no parties appeared in opposition to the Application.
30. The Board found that the Office of Planning & Zoning received five (5) letters in support of the Application.
31. 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 narrow which makes it unique. The variance is necessary to enable reasonable use of the Property. 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