

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: THOMAS TEWES (Case No. 11115)

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 and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 3.5 feet from the 10 foot side yard setback requirement for an existing dwelling and a variance of 3.8 feet from the 20 foot rear yard setback for an second floor deck. The Applicant has requested that the aforementioned requested variances be granted as it pertains to certain real property located south of Route 54 (Lighthouse Road) east of Roosevelt Avenue, being Lot 3 within Cape Windsor development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.14-9.00. After a hearing, the Board made the following findings of fact:

1. Thomas Tewes sworn in and testified on behalf of the Application.
2. The Board found that Mr. Tewes testified that he has been a resident in Fenwick Island for forty (40) years.
3. The Board found that Mr. Tewes testified that the dwelling on the Property was built in 2005 and that he submitted an elevation certificate and survey to his builder.
4. The Board found that Mr. Tewes testified that he was contacted by Planning & Zoning in 2012 that the elevation certificate and survey were never submitted.
5. The Board found that Mr. Tewes testified that an occupancy permit was issued and he was not aware of any encroachments until he submitted the survey in 2012.
6. The Board found that Mr. Tewes testified that the deck is four (4) feet into the rear yard setback area and that he placed the deck in the location of the original deck on the Property.
7. The Board found that Mr. Tewes testified that the second floor deck has no permanent roof.
8. The Board found that Mr. Tewes testified that had he known about the problem with the encroachment when the house was built, he could have moved the dwelling closer to the front yard setback where he had room.
9. The Board found that Mr. Tewes testified that he believed that the builder should have known about the setbacks.
10. The Board found that Mr. Tewes testified that the builder obtained the permit for the structure.
11. The Board found that Mr. Tewes testified that the variances will enable reasonable use of the Property.
12. The Board found that Mr. Tewes testified that the variances will not alter the character of the neighborhood.
13. The Board found that Mr. Tewes testified that the difficulty was not created by the Applicant.
14. The Board found that Mr. Tewes testified that the variances sought are the minimum variances necessary to afford relief.
15. The Board found that Mr. Tewes testified that none of his neighbors have complained about the location of the structure.

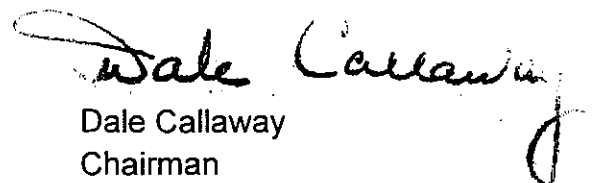
16. The Board found that the Applicant submitted a letter from the homeowners association evidencing that the original structure was approved by the association in 2005
17. The Board found that one (1) party appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. 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 is unique since the Applicant thought the builder had submitted all the proper paperwork. There is no possibility the Property can be developed in strict conformity with the Sussex County zoning ordinance. The difficulty was not created by the Applicant. 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.