

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JANET A. SPEAK (Case No. 11118)

A hearing was held after due notice on December 17, 2012. The Board members present were: Mr. Dale Callaway, 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 10.9 feet from the 15 feet side yard setback requirement for an existing pool house. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located northwest of Road 277 (Robinsonville Road) northwest of Conch Court, being Lot 23 within Sea-Wood development; said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-793.00. After a hearing, the Board made the following findings of fact:

1. Janet Speak and Linda Bova were sworn in and testified on behalf of the Application.
2. Daniel Myers, Esquire, appeared and presented the Application on behalf of the Applicant.
3. The Board found that Mr. Myers stated that the Applicant was requesting a variance of 10.9 feet from the 15 feet side yard setback requirement for an existing pool house.
4. The Board found that Mr. Myers stated that the pool house measures 610 square-feet in size.
5. The Board found that Mr. Myers stated that the setback requirement for a 600 square-foot building is five (5) feet so if the building was ten (10) square feet less in size, the variance needed would be much smaller.
6. The Board found that Mr. Myers stated that the Certificate of Compliance was issued in 2009.
7. The Board found that Mr. Myers stated that the pool house is on a permanent foundation and has electricity.
8. The Board found that Mr. Myers stated that the Property is unique in shape with angled property lines.
9. The Board found that Mr. Myers stated that the variance will enable reasonable use of the Property and that the variance will not alter the essential character of the neighborhood.
10. The Board found that Ms. Speak testified that the dwelling was built in 2006 and that she hired a contractor to construct the pool house.
11. The Board found that Ms. Speak testified that due to problems with the plumbing and being able to hook it up to existing plumbing the pool house had to be built larger than originally planned.
12. The Board found that Ms. Speak testified that the original size of the pool house was to be 462 square-feet in size and that the contractor stated he would take care of it all but has since left the state.
13. The Board found that Ms. Speak testified that she relied on the representations of the contractor and that she believed that all necessary approvals had been obtained by the contractor from Sussex County.
14. The Board found that Ms. Speak testified that she had to hire other contractors to finish the work.

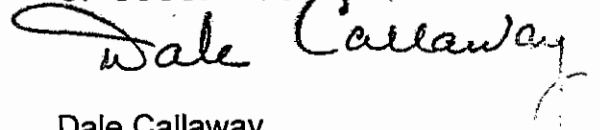
15. The Board found that Ms. Speak testified that the pool house could not be moved into compliance.
16. The Board found that Ms. Speak, under oath, confirmed the statements by Mr. Myers.
17. The Board found that Ms. Bova testified in support of the Application.
18. The Board found that Ms. Bova testified that she has been a realtor for fifteen (15) years, that she is familiar with property values in the area, and that the variance will not adversely affect the neighboring property value.
19. The Board found that three (3) parties appeared in support of the Application.
20. The Board found that no parties appeared in opposition to the Application.
21. The Board found that the Office of Planning & Zoning received three (3) letters in support of the Application.
22. 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 in size due to the angled property lines. 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. Dale Callaway, 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 29, 2013