

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DAVID COSTELLO (Case No. 11126)

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 variances of the side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5 feet from the 10 feet side yard setback requirement and a variance of 5 feet from the 20 feet rear yard setback requirement for a proposed dwelling and a variance of 4 feet from the 10 feet side yard setback requirement for a proposed air conditioning unit. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 54 (Lighthouse Road) west of Wilson Avenue, being Lot 31 Block 3 within Cape Windsor development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.14-63.00. After a hearing, the Board made the following findings of fact:

1. David Costello was sworn in and testified on behalf of the Application.
2. The Board found that Mr. Costello testified that the lot is 50 feet by 85 feet and that he proposes to construct a dwelling thereon.
3. The Board found that Mr. Costello testified that the proposed dwelling is compatible with the neighborhood.
4. The Board found that Mr. Costello testified that the variances are necessary to enable reasonable use.
5. The Board found that Mr. Costello testified that the Applicant did not create the lot, therefore the difficulty was not created by the Applicant.
6. The Board found that Mr. Costello testified that the variances sought are the minimum variances necessary to afford relief.
7. The Board found that Mr. Costello testified that the variances will not alter the essential character of the neighborhood.
8. The Board found that Mr. Costello testified that the Homeowners Association approves the proposed dwelling.
9. The Board found that Mr. Costello testified that the dwelling, inclusive of all decks, will measure 35 feet by 60 feet.
10. The Board found that Mr. Costello testified that the variance will allow for parking in the front of the Property.
11. The Board found that Mr. Costello testified that the air conditioning unit can be moved into compliance.
12. The Board found that Mr. Costello testified that he recessed the proposed steps to prevent further encroachment into the rear yard setback area.
13. The Board found that Phillip Fisher was sworn in and testified in opposition to the Application.
14. The Board found that Mr. Fisher testified that he is an adjacent neighbor, and that he is mainly concerned that the proposed dwelling will be too close to an existing transformer.
15. The Board found that Mr. Costello testified that proposed dwelling will be a 4,000 square-feet, three (3) story structure.
16. The Board found that Mr. Costello testified that the parking is the main reason the variances are needed.

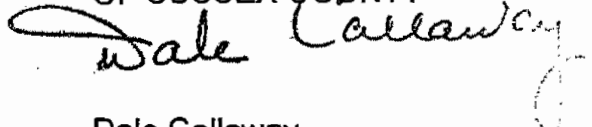
17. The Board found that Mr. Costello testified that the garage is incorporated within the structure.
18. The Board found that Mr. Costello testified that the majority of the dwellings in the development are two (2) to three (3) story dwellings.
19. The Board found that two (2) parties appeared in support of the Application.
20. The Board found that one (1) party appeared in opposition to the Application.
21. 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 Applicant was creating the exceptional practical difficulty by proposing to build a dwelling outside the Property's building envelope.

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. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion to Deny the Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Dale Callaway
Chairman

Date

January 29, 2013