

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

**IN RE: ESTATE OF DULSEENA LEONARD (Case No. 11129)**

A hearing was held after due notice on January 7, 2013. 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 front 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 30 feet front yard setback requirement for an existing manufactured home and a variance of 1 foot from the 5 feet rear yard setback requirement for an existing shed. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Road 297 (Oak Orchard Road) southeast of Oak Meadow Drive, being Lot 74 within Oak Meadows development; said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-135.00. After a hearing, the Board made the following findings of fact:

1. Pam Leonard and Paul Polasky were sworn in and testified on behalf of the Application.
2. Dean Campbell, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Campbell stated that the Property is located in the Oak Meadows development.
4. The Board found that Mr. Campbell stated that the owner passed away and the Property was being sold as part of her estate administration.
5. The Board found that Mr. Campbell stated that the encroachments were discovered in a survey completed for settlement.
6. The Board found that Mr. Campbell stated that the deceased owner had problems with the builder.
7. The Board found that Mr. Campbell stated that a Certificate of Compliance has been issued for the manufactured home and that no violations of the Sussex County Zoning Ordinance were noticed at that time.
8. The Board found that Mr. Campbell stated that to move the manufactured home into compliance would be very costly.
9. The Board found that Mr. Campbell stated that the variances will not alter the essential character of the neighborhood, since there are other manufactured homes in Oak Meadows which are closer to the street.
10. The Board found that Mr. Campbell stated that the difficulty was not created by the Applicant.
11. The Board found that Mr. Campbell stated that the variances will enable reasonable use of the Property.
12. The Board found that Ms. Leonard, under oath, confirmed the statements by Mr. Campbell.
13. The Board found that Mr. Polasky testified that the buyer of the Property plans to remove the existing shed since it is in poor condition and that he does not believe it is on a permanent foundation.
14. The Board found that Ms. Leonard testified that her parents purchased the Property in 1989.
15. The Board found that Ms. Leonard testified that there was an existing single-wide manufactured home at that time.

16. The Board found that Ms. Leonard testified that her parents replaced the single-wide with a double-wide unit.
17. The Board found that Ms. Leonard testified that she believes it was placed at the same location as the single-wide.
18. The Board found that two (2) parties appeared in support of the Application.
19. The Board found that no parties appeared in opposition to the Application.
20. 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 Certificate of Compliance was issued in 2011. The variances are necessary to enable reasonable use of the Property. 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 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 30, 2013