

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ERIC J. POLANSKY (Case No. 11149)

A hearing was held after due notice on February 4, 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 from the side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 3.2 feet from the 10 feet side yard setback requirement for an open deck and steps and a variance of 4.2 feet from the 10 feet side yard setback requirement for an existing manufactured home. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Route 54 (Lighthouse Road) southeast of Laws Point Road, being Lot 66, Block E within Swann Keys development; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.12-2.00. After a hearing, the Board made the following findings of fact:

1. Eric Polansky and Charming Polansky were sworn in to testify on behalf of the Application.
2. The Board found that Jane Patchell, Esquire, appeared on behalf of the Applicant.
3. The Board found that Ms. Patchell stated that the Applicant purchased the Property in May 2007.
4. The Board found that Ms. Patchell stated that the manufactured home was placed in 1993 by a prior owner.
5. The Board found that Ms. Patchell stated that a Certificate of Compliance was issued for the dwelling in 1995.
6. The Board found that Ms. Patchell stated that a variance was granted in 2007 to bring the unit into compliance with the Sussex County Zoning Code.
7. The Board found that Ms. Patchell stated that the Applicant has added onto the unit and was not aware the Applicant needed variances for the additions.
8. The Board found that Ms. Patchell stated that the Applicant obtained a building permit for the new additions.
9. The Board found that Ms. Patchell stated that the additions are in line with the existing manufactured home.
10. The Board found that Ms. Patchell stated that the dwelling was inspected in 2009 and in 2011 with no mention as to the issues with placement.
11. The Board found that Ms. Patchell stated that the Applicant is selling the Property.
12. The Board found that Ms. Patchell stated that a survey completed for settlement showed the encroachment.
13. The Board found that Ms. Patchell stated that the lot is 40 feet wide making it unique in size.
14. The Board found that Ms. Patchell stated that the existing hallway in the unit prevents the addition from being built in strict conformity with the Sussex County Zoning Code.
15. The Board found that Ms. Patchell stated that the variances are necessary to enable reasonable use of the Property.
16. The Board found that Ms. Patchell stated that the difficulty was not created by the Applicant.

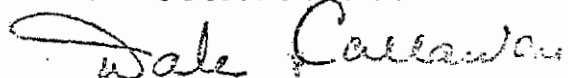
17. The Board found that Ms. Patchell stated that the variances do not alter the essential character of the neighborhood as it has been in place for 18 months.
18. The Board found that Ms. Patchell stated that the variances are the minimum variances necessary to afford relief.
19. The Board found that Mr. Polansky, under oath, confirmed the statements by Ms. Patchell.
20. The Board found that Mr. Polansky testified that the addition was constructed as depicted on the plans submitted with the building permit application and that no one mentioned a problem with the setbacks at that time.
21. The Board found that no parties appeared in support of or in opposition to 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. The variances are necessary to enable reasonable use of the Property. The variances will not alter the essential character of the neighborhood. The variances will not be detrimental to the public welfare. 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. 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 March 19, 2013