

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHRISTIAN BRAUER (Case No. 11153)

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 a variance from the side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 1.4 feet from the 10 feet side yard setback requirement for a non-conforming dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located west of Road 312 (River Road) approximately 900 feet west of Road 312A (Layton Davis Road); said property being identified as Sussex County Tax Map Parcel Number 2-34-34.10-49.00. After a hearing, the Board made the following findings of fact:

1. Christian Brauer was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Brauer testified that he is the builder and is representing the property owners.
3. The Board found that Mr. Brauer testified that the owners wish to construct an addition to their dwelling and that the dwelling is a non-conforming structure as it encroaches into the building restriction lines.
4. The Board found that Mr. Brauer testified that the lot is narrow in size.
5. The Board found that Mr. Brauer testified that the dwelling is built at an angle on the lot.
6. The Board found that Mr. Brauer testified that there is an existing full basement to the dwelling.
7. The Board found that Mr. Brauer testified that they plan to demolish the dwelling, leaving only the foundation and subfloor.
8. The Board found that Mr. Brauer testified that they have recently upgraded the bulkhead on the Property.
9. The Board found that Mr. Brauer testified that the proposed addition will "square up" the structure.
10. The Board found that Mr. Brauer testified that there would be a great cost to bring the entire structure into compliance with the zoning code.
11. The Board found that Mr. Brauer testified that the addition would conform with the zoning code.
12. The Board found that Mr. Brauer testified that the variance will enable reasonable use of the Property.
13. The Board found that Mr. Brauer testified that the difficulty was not created by the Applicant.
14. The Board found that Mr. Brauer testified that the variance will not alter the essential character of the neighborhood.
15. The Board found that Mr. Brauer testified that the variance is the minimum variance necessary to afford relief.
16. The Board found that Mr. Brauer testified that the variance is necessary to achieve a satisfactory appearance and for ease of construction.
17. The Board found that Mr. Brauer testified that the existing dwelling has no indoor shower.
18. The Board found that Mr. Brauer testified that the existing outside shower will be removed bringing the North side of the dwelling into compliance.

19. The Board found that Mr. Brauer submitted exhibits to the Board for review.
20. The Board found that Glen Ewing was sworn in and testified in opposition to the Application.
21. The Board found that Mr. Ewing testified that he is more concerned than opposed to the Application as the owners have never met with him to explain their plans.
22. The Board found that Mr. Ewing testified that he is concerned the owners plan to raise the existing structure or build a larger dwelling on the Property.
23. The Board found that no parties appeared in support of the Application.
24. The Board found that one (1) party appeared in opposition to the Application.
25. 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 difficulty was not created by the Applicant. The variance is necessary to enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief. The variance will not be detrimental to the public welfare.

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