

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

**IN RE: VILLAGES AT HERRING CREEK DEVELOPMENT**

**(Case No. 11157)**

A hearing was held after due notice on February 18, 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 rear yard and front yard setback requirements.

**Findings of Fact**

The Board found that the Applicant was seeking a variance of 6 feet from the 30 feet front yard setback requirement and a variance of 10 feet from the 20 feet rear yard setback requirement for a proposed dwelling. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Road 279 (Camp Arrowhead Road) south of Jennifer Way, being Lot 125 within Villages at Herring Creek development; said property being identified as Sussex County Tax Map Parcel Number 2-34-12.00-321.00. After a hearing, the Board made the following findings of fact:

1. Ken Christenbury of Axiom Engineering was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Christenbury testified that the Property is identified as Lot 125 in the community.
3. The Board found that Mr. Christenbury testified that the Applicant has developed the community over the past five (5) years.
4. The Board found that Mr. Christenbury testified that the community was originally planned to be developed in two phases (Phase 1 and Phase 2).
5. The Board found that Mr. Christenbury testified that the Property being developed as Phase 2 was planned originally for the operation of wastewater treatment and disposal area for Phase 1.
6. The Board found that Mr. Christenbury testified that the Sussex County Engineering Department later extended central sewer to the project.
7. The Board found that Mr. Christenbury testified that a force main had to be installed and the placement of the force main has created an irregular shaped Lot 125.
8. The Board found that Mr. Christenbury testified that Lot 125 is located at the end of a dead end road.
9. The Board found that Mr. Christenbury testified that the lot is very narrow.
10. The Board found that Mr. Christenbury testified that Schell Brothers builds homes for the community and the style homes Schell Brothers offers will not fit on a lot this size.
11. The Board found that Mr. Christenbury testified that Schell Brothers would have to build a customized dwelling to fit the lot and that a custom designed house could price the dwelling out of the neighborhood and lead to a house not in character with the neighborhood.
12. The Board found that Mr. Christenbury testified that the variances will allow for a dwelling that is in character of the neighborhood.
13. The Board found that Mr. Christenbury testified that a 20 feet forested buffer is adjacent to the rear of the Property.

14. The Board found that Mr. Christenbury testified that there would be no hardship on any other lots in the community if the variance were granted.
15. The Board found that Mr. Christenbury testified that the variance is the minimum necessary to afford relief.
16. The Board found that Mr. Christenbury submitted pictures and exhibits in support of the Application.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. 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 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 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.