

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SHARON TONER and ROBIN BUNCH

(Case No. 11162)

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 side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 4 feet from the 10 foot side yard setback requirement for a proposed manufactured home, a variance of 4 feet from the 10 foot side yard setback requirement for a manufactured home and a variance of 7 feet from the 10 foot side yard setback requirement for steps and an air conditioning unit. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Route 54 (Lighthouse Road) west of Blue Teal Road, being Lot 45, Block C within Swann Keys development; said property being identified as Sussex County Tax Map Parcel Number 1-33-16.00-69.00. After a hearing, the Board made the following findings of fact:

1. Robin Bunch and Sharon Toner were sworn in to testify on behalf of the Application.
2. Raymond Tomasetti, Esquire, was present to present the Application on the Applicants' behalf.
3. The Board found that Mr. Tomasetti stated that the existing manufactured home was lost due to flooding from the storm "Sandy" and that the Applicants intend to build a new dwelling on the lot.
4. The Board found that Mr. Tomasetti stated that the lot is located within the Swann Keys development and that the lot is only forty (40) feet wide.
5. The Board found that Mr. Tomasetti stated that a porch will be located on the rear of the Property.
6. The Board found that Mr. Tomasetti stated that the Property is unique and that the variances will not alter the essential character of the neighborhood.
7. The Board found that Mr. Tomasetti stated that the unit will be elevated to prevent future flood damage.
8. The Board found that Mr. Tomasetti stated that the Applicants want to place the air conditioning unit on the north side of the Property.
9. The Board found that Mr. Tomasetti stated that the steps will be on the south side of the lot.
10. The Board found that Mr. Tomasetti stated that the variances are the minimum variances to afford relief.
11. The Board found that Mr. Tomasetti stated that the neighbor supports the Application.
12. The Board found that Mr. Tomasetti submitted pictures in support of the Application.
13. The Board found that Ms. Bunch testified that the Applicants' builder advised the Applicants that the air conditioning unit should be placed at the center of a home for better airflow.
14. The Board found that Ms. Bunch, under oath, confirmed the statements made by Mr. Tomasetti.

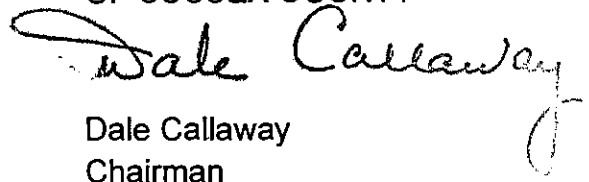
15. The Board found that no parties appeared in support of or in opposition to the Application.
16. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that part of the Application met the standards for granting a variance. The Property is unique in size. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The variances will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary to afford relief.
17. The Board found that the Applicants failed to meet the standards for granting a variance of the side yard setback for the placement of an air conditioning unit because the air conditioning unit could be placed in compliance with the Sussex County Zoning Code. The Board denied the side yard variance for the air conditioning unit but approved the remaining variances sought by the Applicants.

The Board approved the variance application with the stipulation that the air conditioning unit be placed on the South side of the dwelling in compliance with the setback requirements.

Decision of the Board

Upon motion duly made and seconded, the Application with the stipulation was approved. The Board Members voting to approve the Application with the stipulation 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