

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: B G & L ASSOC.

(Case No. 11187)

A hearing was held after due notice on April 1, 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 9 feet from the 20 feet side yard setback requirement for a proposed loading dock. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Road 326A (West State Street) approximately 1,148 feet east of Road 82 (Delaware Avenue); said property being identified as Sussex County Tax Map Parcel Number 1-33-17.09-5.01. After a hearing, the Board made the following findings of fact:

1. William Byler, Jr., and Steve Kern were sworn in to testify on behalf of the Application.
2. The Board found that Mr. Byler testified that the proposed loading dock is for the existing business.
3. The Board found that Mr. Byler testified that the location of the existing building in relation to the property line creates a unique situation.
4. The Board found that Mr. Byler testified that the ability to effectively use the site is greatly diminished without the proposed loading dock.
5. The Board found that Mr. Byler testified that the adjacent property is owned by the Town of Millsboro and is improved by Little League Fields.
6. The Board found that Mr. Byler testified that a railroad track is located to the rear of the Property.
7. The Board found that Mr. Byler testified that the loading dock will have a roof over it but will not have sides to the cover.
8. The Board found that Mr. Byler testified that the loading dock cannot be constructed without a variance.
9. The Board found that Mr. Byler testified that they believe the trucks can be negotiated into the loading dock area while staying on the Property.
10. The Board found that Mr. Byler testified that there is no fence between the Property and the adjacent property housing the Little League fields.
11. The Board found that Mr. Byler testified that the width of the dock is needed to maneuver forklifts and store pallets during the loading and unloading of products.
12. The Board found that Mr. Kern testified that approximately eight (8) or nine (9) trucks a week will use the loading dock.
13. The Board found that Mr. Kern testified that the Applicant is willing to erect a fence on the property line to prevent trucks from riding on to the adjacent properties.
14. The Board found that Mr. Kern testified that the Applicant will install crush and run gravel in the loading area.
15. The Board found that Mr. Kern testified that the loading dock will provide more options for loading and unloading supplies.
16. The Board found that Mr. Kern testified that the Applicant operates a paper and janitorial supply distribution business.

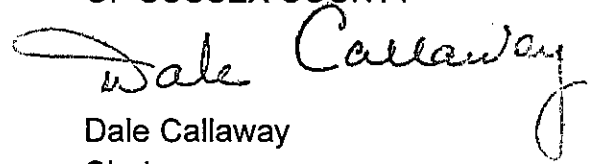
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. The Board tabled its decision on the Application until April 15, 2013.
19. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique in shape. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief.
20. The Board placed the following condition on its approval. The Board stipulated that the Applicant must install a chain link fence with no slats that is a minimum of four (4) feet tall along the property line where the side variance is located.

The Board approved the variance application with conditions finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the Application was approved with conditions. 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 May 21, 2013