

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHARLES LIMMER AND BETTY LIMMER

(Case No. 11190)

A hearing was held after due notice on April 15, 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 and rear yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of five (5) feet from the 10 feet side yard setback requirement for a proposed attached garage and a variance of five (5) feet from the 20 feet rear yard setback requirement for a proposed porch. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 54 (Lighthouse Road) west of Tyler Avenue, being Lot 41 within Cape Windsor development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-69.00. After a hearing, the Board made the following findings of fact:

1. Charles Limmer, Sr., was sworn in to testify about the Application.
2. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicants.
3. The Board found that Mr. Fuqua submitted exhibits to the Board for review.
4. The Board found that Mr. Fuqua stated that the Property is located within the Cape Windsor development.
5. The Board found that Mr. Fuqua stated that the Applicants applied for variances in November 2012 and the Application was denied and that the Applicants have re-designed the proposed dwelling per the Board's comments.
6. The Board found that Mr. Fuqua stated that there is a significant difference in the new site plan submitted with this Application from the site plan offered in the prior application.
7. The Board found that Mr. Fuqua stated that the proposed dwelling is more in conformity with other dwellings in Cape Windsor.
8. The Board found that Mr. Fuqua stated that Cape Windsor is a dense residential development.
9. The Board found that Mr. Fuqua stated that the lot is 50 feet wide.
10. The Board found that Mr. Fuqua stated that the existing home had to be removed and replaced.
11. The Board found that Mr. Fuqua stated that the building envelope is being moved to the rear of the Property and is not being enlarged.
12. The Board found that Mr. Fuqua stated that the rear yard variance will allow room for parking in front of the dwelling and will create a buffer area from the street.
13. The Board found that Mr. Fuqua stated that the rear yard is adjacent to the existing lagoon.
14. The Board found that Mr. Fuqua stated that the variance requests are consistent with other variances granted in the development.
15. The Board found that Mr. Fuqua stated that lots within Cape Windsor are unique because the community was originally developed for manufactured homes.
16. The Board found that Mr. Fuqua stated that there have been twenty-two (22) similar variances granted on Tyler Avenue.

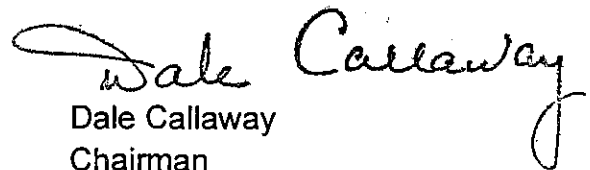
17. The Board found that Mr. Fuqua stated that the difficulty was not created by the Applicants and that the variances will not alter the character of the neighborhood.
18. The Board found that Mr. Fuqua stated that the variances are necessary to enable reasonable use of the Property and that the variances are the minimum variances necessary to afford relief.
19. The Board found that Mr. Fuqua stated that the Applicants have safety concerns about placing their home five (5) feet from the road.
20. The Board found that Mr. Limmer, under oath, confirmed the statements made by Mr. Fuqua and that Mr. Limmer testified that he has experienced no problems with flooding in the rear of the Property
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. The Board found that the Application is substantially different than the application submitted by the Applicants in 2012.
23. 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 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.

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 May 21, 2013