

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KEITH MERVINE (Case No. 11191)

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 Applicant was seeking a variance of 1.6 feet from the 10 feet rear yard setback requirement for an existing detached pole barn and a variance of 1.5 feet from the 5 feet setback requirement for an existing detached garage. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located southwest of Route 5 (Oak Orchard Road) east of Roberta Lane, being Lot 33 within Orchard Manor development; said property being identified as Sussex County Tax Map Parcel Number 2-34-34.08-36.00. After a hearing, the Board made the following findings of fact:

1. Keith Mervine was sworn in to testify about the Application.
2. The Board found that the Office of Planning & Zoning received a letter in support of the application from the Indian River Volunteer Fire Department which owns adjacent property.
3. The Board found that Mr. Mervine testified that he has a letter of support from a neighbor as well.
4. The Board found that Mr. Mervine testified that the Property is unique.
5. The Board found that Mr. Mervine testified that he purchased the Property in 2010 and that the Property measures 76 feet by 133 feet.
6. The Board found that Mr. Mervine testified that the pole barn was placed in the rear of the Property to be less obstructive from the street.
7. The Board found that Mr. Mervine testified that the pole barn was initially constructed in compliance with the setback requirements but that additional bracing to the pole barn was necessary and the bracing created the encroachment.
8. The Board found that Mr. Mervine testified that he built the pole barn and obtained the building permit.
9. The Board found that Mr. Mervine testified that he did not construct or place the existing detached garage and that the detached garage was on the Property when he purchased the Property.
10. The Board found that Mr. Mervine testified that the location of the pole barn allows him access to maneuver the boat in and out of the structure.
11. The Board found that Mr. Mervine testified that he relied on his property markers when measuring, but feels they could have been moved.
12. The Board found that Mr. Mervine submitted pictures of the Property to the Board.
13. The Board found that no parties appeared in support of or in opposition to the Application.
14. 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