

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GLENN LEBEDZ AND CAROL LEBEDZ

(Case No. 11223)

A hearing was held after due notice on June 17, 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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 2.1 feet from the required five (5) feet rear yard setback requirement for an existing shed. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located southwest of Second Hole (a.k.a. Bay Hill Drive) and 0.25 miles south of Sussex Pine Road (South 324) being Lot 3, Block E, within Golf Village development; said property being identified as Sussex County Tax Map Parcel Number (1-33-2.00-72.00). After a hearing, the Board made the following findings of fact:

1. Glenn Lebedz was sworn in to testify about the Application.
2. The Board found that Mr. Lebedz testified that the shed is located in the rear of the Property.
3. The Board found that Mr. Lebedz testified that he purchased the Property eleven (11) years ago with the shed already in place at that time.
4. The Board found that Mr. Lebedz testified that the Property is unique due to mature plantings and trees.
5. The Board found that Mr. Lebedz testified that he was unaware of the encroachment at the time of purchase.
6. The Board found that Mr. Lebedz testified that the existing landscape and paved walkway prevent the ability to move the shed into compliance.
7. The Board found that Mr. Lebedz testified that the variance is necessary to enable reasonable use and that he would not be able to store his lawn tractor in the existing shed if the shed was moved into compliance.
8. The Board found that Mr. Lebedz testified that the difficulty has not been created by the Applicants.
9. The Board found that Mr. Lebedz testified that the variance will not alter the essential character of the neighborhood.
10. The Board found that Mr. Lebedz testified that the variance is not detrimental to the public welfare.
11. The Board found that Mr. Lebedz testified that the variance requested is the minimum variance necessary to afford relief.
12. The Board found that Mr. Lebedz testified that the Applicants filed the Application after receiving a violation notice from the Planning and Zoning Department.
13. The Board found that Mr. Lebedz testified that there are three (3) sheds, two (2) of which are on neighboring properties, in violation to the setback requirements in the area.
14. The Board found that Judith Davidson was sworn in and testified in opposition to the Application.
15. The Board found that Ms. Davidson testified that she is a nearby property owner that also had a shed in violation to the setback requirement.
16. The Board found that Ms. Davidson testified that she moved her shed into compliance and that she feels all three (3) sheds in violation should be moved into compliance.

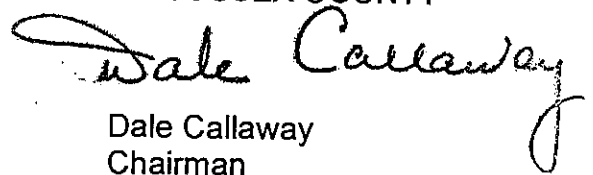
17. The Board found that Ms. Davidson testified that she had four (4) mature trees removed in order to move her shed into compliance with the setback requirement.
18. The Board found that Ms. Davidson testified that she purchased her property eight (8) years ago and was unaware the existing shed did not comply with the setback requirements.
19. The Board found that Ms. Davidson testified that the owner of the third shed has constructed it without the proper building permits and that property owner relocated property markers.
20. The Board found that Mr. Lebedz testified that the existing pathway and flower beds create a hardship to bring the shed into compliance.
21. The Board found that Mr. Lebedz testified that a variance is needed to gain access to the shed.
22. The Board found that Mr. Lebedz testified that he believes the shed is on cinder blocks and it does have a wood floor.
23. The Board found that no parties appeared in support of the Application.
24. The Board found that one (1) party appeared in opposition to the Application.
25. The Board tabled its decision on this Application until July 1, 2013.
26. 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 for the following reasons. The Property is unique. The difficulty was not created by the Applicants as the shed was already in place when the Applicants purchased the Property. The variance is necessary to enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood. The variance is not detrimental to public welfare. The variance sought is the minimum variance 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 August 7, 2013