

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DELMARVA LAND COMPANY LLC

(Case No. 11225)

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 variances from the front yard setback for a through lot.

Findings of Fact

The Board found that the Applicant was seeking a variance of forty five (45) feet from the required sixty (60) feet front yard setback requirement and a variance of fifteen (15) feet from the required sixty (60) feet front yard setback required for a proposed commercial building. The Applicant has requested that the aforementioned requested variance be granted as they pertain to certain real property located east of U.S. Route 113 (DuPont Boulevard) northwest of Road 54A and at the intersection of DuPont Boulevard and Delaware Avenue; said property being identified as Sussex County Tax Map Parcel Number (4-33-11.00-17.01). After a hearing, the Board made the following findings of fact:

1. Travis Martin and Richard Martin were sworn in to testify about the Application.
2. The Board found that Travis Martin testified that he owns Chesapeake Plumbing and Delaware Land Company and that the building is needed to expand his business.
3. The Board found that Travis Martin testified that the lot is triangular in shape and that there are roads on three sides of the Property.
4. The Board found that Travis Martin testified that the lot is a through lot.
5. The Board found that Travis Martin testified that the setback requirement creates only a twelve (12) foot building envelope on one side of the Property.
6. The Board found that Travis Martin testified that the Property cannot be developed in strict conformity with the Sussex County Zoning Code.
7. The Board found that Travis Martin testified that the variances are necessary to enable reasonable use of the Property.
8. The Board found that Travis Martin testified that the difficulty was not created by the Applicant.
9. The Board found that Travis Martin testified that the variances will not alter the character of the neighborhood.
10. The Board found that Travis Martin testified that there are no visible businesses nearby except for a car dealership owned by Richard Martin on the other side of Route 113.
11. The Board found that Travis Martin testified that there are no nearby residences.
12. The Board found that Travis Martin testified that the use will enhance the neighborhood.
13. The Board found that Travis Martin testified that the variances will not impair the uses or development of adjacent properties.
14. The Board found that Travis Martin testified that the variances will not be detrimental to the public welfare.
15. The Board found that Travis Martin testified that variances requested are the minimum variances to afford relief.
16. The Board found that Travis Martin testified that he was approved for the same variance in 2007 and that he has received three (3) extensions from the Board.

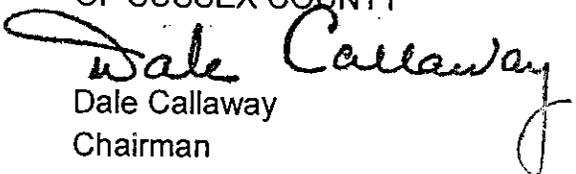
17. The Board found that Travis Martin testified that in 2010 he installed a \$30,000.00 entrance per requirements by the Delaware Department of Transportation ("DelDOT").
18. The Board found that Travis Martin testified that he was unable to construct the building at that time.
19. The Board found that Travis Martin testified that his business has improved and he can now afford to build the building.
20. The Board found that Travis Martin testified that he has all agency approvals pending approval of the variances.
21. The Board found that Travis Martin testified that there are no changes from the prior applications or the design of the buildings.
22. The Board found that Travis Martin testified that he has already invested approximately \$75,000.00 into this project.
23. The Board found that one (1) party in support of the Application.
24. The Board found that no parties appeared in opposition to the Application.
25. 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 based on the following reasons. The Property is unique in size and shape. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant as the Property was not designed by the Applicant. 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 July 16, 2013