

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ELIZABETH RUSSELL

(Case No. 11229)

A hearing was held after due notice on July 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 height requirement for a fence on a corner lot.

Findings of Fact

The Board found that the Applicant was seeking a variance of 3.5 feet from the 3.5 feet height requirement for a fence. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located at the intersection of Route 1 (Coastal Highway) and Carolina Street, being part of Lots 5 & 6 within Killens addition development; said property being identified as Sussex County Tax Map Parcel Number (3-34-20.09-168.00). After a hearing, the Board made the following findings of fact:

1. Elizabeth Russell was sworn in to testify about the Application.
2. The Board found that Ms. Russell testified that the proposed fence will run along the side yard property line adjacent to Route 1.
3. The Board found that Ms. Russell testified that the existing cottage was built in the 1870's and moved to this Property in the 1940's and that her family has been visiting the Property since the 1970's.
4. The Board found that Ms. Russell testified that she purchased the Property in 1998.
5. The Board found that Ms. Russell testified that when she obtained the building permit she learned of the height requirements for the fence.
6. The Board found that Ms. Russell testified that the existing trees along the property line are dying and that without the trees or the proposed fence she will lose her sound barrier.
7. The Board found that Ms. Russell testified that Route 1 has been expanded and a bike lane and sidewalk have been added.
8. The Board found that Ms. Russell testified that the fence is also needed to provide safety for her family members and tenants.
9. The Board found that Ms. Russell testified that the fence is needed for full enjoyment of the Property.
10. The Board found that Ms. Russell testified that the neighbors have no objection to the Application and that there is similar fencing in the area.
11. The Board found that Ms. Russell testified that the proposed fence will be seven (7) feet tall along the side yard only and three (3) feet tall along the front and rear yards.
12. The Board found that Ms. Russell testified that the sidewalk and bike path were created after she purchased the Property.
13. The Board found that Ms. Russell testified that the proposed fence will not hinder the traffic or block views of the intersection.
14. The Board found that Ms. Russell submitted pictures and exhibits to the Board for review.
15. The Board found that no parties appeared in support of or in opposition to the Application.
16. 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. There is a uniqueness to the Property. 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.

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