

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOHN DYKSTRA

(Case No. 11236)

A hearing was held after due notice on July 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 side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 1.5 feet from the five (5) feet side yard setback requirement for an existing shed and a variance of 0.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Concord Road, north of Cedar Lane, being Lot 10, within Nanticoke Acres development; said property being identified as Sussex County Tax Map Parcel Number 1-32-2.00-17.00. After a hearing, the Board made the following findings of fact:

1. John Dykstra was sworn in to testify about the Application.
2. The Board found that Mr. Dykstra testified that he is the former owner of the Property and that he sold the Property on June 25, 2013.
3. The Board found that Mr. Dykstra testified that a survey completed for settlement showed the encroachments.
4. The Board found that Mr. Dykstra testified that he purchased the Property in 1993 and that the Property was developed approximately sixty (60) years ago.
5. The Board found that Mr. Dykstra testified that the existing dwelling and the existing pool house / shed were in need of repairs at the time he purchased the Property.
6. The Board found that Mr. Dykstra testified that the existing pool house / shed was infested with termites.
7. The Board found that Mr. Dykstra testified that he built the existing pool house on the existing concrete pad and a portion of the concrete wall supports the existing pool.
8. The Board found that Mr. Dykstra testified that he obtained the required building permits.
9. The Board found that Mr. Dykstra testified that there was never any mention of the structures not meeting the setback requirements at that time.
10. The Board found that Mr. Dykstra testified that the existing dwelling was not ten (10) feet from the side yard property line.
11. The Board found that Mr. Dykstra testified that the septic system and a pond are on the opposite side of the pool.
12. The Board found that Mr. Dykstra testified that the Property is unique in shape.
13. The Board found that Mr. Dykstra testified that the dwelling is located parallel to the road but the Property is angled.
14. The Board found that Mr. Dykstra testified that the variances are necessary to enable reasonable use of the Property.
15. The Board found that Mr. Dykstra testified that the variances do not alter the character of the neighborhood.
16. The Board found that Mr. Dykstra testified that the variances are not detrimental to the public welfare and that the variances are the minimum variances necessary to afford relief.

17. The Board found that Mr. Dykstra testified that there have been no complaints from the neighbors.
18. The Board found that Mr. Dykstra testified that the addition was constructed six (6) inches further from the side yard property line than the existing dwelling.
19. The Board found that Mr. Dykstra submitted the original survey of the Property to the Board.
20. The Board found that four (4) parties appeared in support of the Application.
21. The Board found that no parties appeared in opposition to the Application.
22. 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 location of the house in relation to the property line creates a uniqueness to the Property. The pool house was existing and the Applicant tried to keep the house from the property line in renovating the Property. The variances are necessary to enable reasonable use of the Property. The variances do 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 August 20, 2013