

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: HOLLY WEST & TAMMY MUNDIE**

**(Case No. 11257)**

A hearing was held after due notice on September 9, 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 requirement for a through lot.

Findings of Fact

The Board found that the Applicants were seeking a variance of 3.5 feet from the thirty (30) feet front yard setback requirement on Beach Plum Drive for an existing second floor deck and a variance of 8.5 feet from the thirty (30) feet front yard setback requirement on Pintail Drive for an existing dwelling. The Applicants have requested that the aforementioned requested variance be granted as they pertain to certain real property northeasterly end of Route 16 at Broadkill Beach northeast of Pintail Lane 650 feet northwest of Alaska Avenue, being Lot 9 Block B within Back Bay development; said property being identified as Sussex County Tax Map Parcel Number 2-30-24.00-74.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received a letter from Kris Battaglini and Nancy Battaglini stating that they had no objection to the variance request provided that the existing dwelling and deck are not increased in size and that they would be opposed to any variances needed that would change the current status quo.
2. Henry Wooding was sworn in to testify on behalf of the Application.
3. The Board found that Mr. Wooding testified that the dwelling was built in the late 1960's or early 1970's and that there have been no changes made to the dwelling since it was first constructed.
4. The Board found that Mr. Wooding testified that there are no proposed changes to the dwelling.
5. The Board found that Mr. Wooding testified that he sold the Property approximately five (5) years ago but the encroachments went unnoticed and that the decks were present when the previous owner purchased the Property.
6. The Board found that Mr. Wooding testified that the recent sale of the Property required a survey which showed the encroachments.
7. The Board found that Mr. Wooding testified that the variances are necessary to enable reasonable use of the Property because the Applicants would have to tear down a portion of the dwelling to comply with the setback requirements.
8. The Board found that Mr. Wooding testified that the variances do not alter the character of the neighborhood as there are other similar properties in the neighborhood.
9. The Board found that Mr. Wooding testified that the variances are the minimum to afford relief.
10. The Board found that there were no parties present in support of or in opposition to this Application.
11. 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 dwelling has been used in its current state for many years. A Certificate of Compliance was issued for the dwelling

which creates a unique situation. 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 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 October 22, 2013