

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BANK OF AMERICA C/O RIALE REALTY

(Case No. 11264)

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 and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 7.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling and a variance of 5.5 feet from the ten (10) feet side yard setback requirement for an existing porch. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property south of Road 277 northwest of Boat Dock Drive West, being Lot 52 N ½ Lot 51 Block Y Section 4 within Angola by the Bay development; said property being identified as Sussex County Tax Map Parcel Number 2-34-11.20-239.00. After a hearing, the Board made the following findings of fact:

1. Tim Riale was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Riale testified that the Property is in foreclosure and that, in preparing the Property for sale, it was discovered that the dwelling and the porch encroach into the setback areas.
3. The Board found that Mr. Riale testified that the dwelling and porch were constructed in 1970.
4. The Board found that Mr. Riale testified that a recent survey showed the encroachments.
5. The Board found that Mr. Riale testified that the Applicant has been unable to sell the Property due to the encroachments.
6. The Board found that Mr. Riale testified that it is cost prohibitive to deconstruct the house and rebuild.
7. The Board found that Mr. Riale testified that the difficulty was not created by the Applicant and that the difficulty does not appear to have been created by the previous owner either.
8. The Board found that Mr. Riale testified that appears that proper permits were obtained when the dwelling was constructed.
9. The Board found that Mr. Riale testified that an older survey showed different measurements and that the Applicant chose to use the more recent survey which showed the encroachments.
10. The Board found that Mr. Riale testified that the Property cannot otherwise be developed.
11. The Board found that Mr. Riale testified that the variances sought are not detrimental to the public welfare.
12. The Board found that Mr. Riale testified that the variances sought are the minimum variances to afford relief.
13. The Board found that Mr. Riale testified that the fence has been moved into compliance.
14. The Board found that there were no parties present in support of or in opposition to this Application.

15. 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 two (2) different surveys create a unique situation. The variances are necessary to enable reasonable use of the Property. The difficulty was not created 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 October 22, 2013