

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LAF ERICKSON & GUNDULA ERICKSON

(Case No. 11274)

A hearing was held after due notice on October 7, 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 minimum lot width requirement for a parcel.

Findings of Fact

The Board found that the Applicants were seeking a variance of seventy-five (75) feet from the required one hundred and fifty (150) feet lot width requirement for a parcel. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located northeast of Wingate Road (Road 343) 975 feet northwest of Omar Road (Road 54); said property being identified as Sussex County Tax Map Parcel Number 1-34-10.00-62.09. After a hearing, the Board made the following findings of fact:

1. Laf Erickson was sworn in to testify about the Application.
2. James Fuqua, Esquire, presented the Application on behalf of the Applicants.
3. The Board found that Mr. Fuqua stated that the wrong Sussex County Tax Map Parcel Number was incorrectly listed on the Application and that the original survey noted the wrong Tax Map Parcel Number.
4. The Board found that Mr. Fuqua stated that the Property contains 10.56 acres and is located on Wingate Road north of Route 54.
5. The Board found that Mr. Fuqua stated that the Applicants propose to subdivide the Property into two (2) parcels identified as Lots 3 & 4 on the survey.
6. The Board found that Mr. Fuqua stated that the proposed Lot 4 will be 3.24 acres and has 175 feet of road frontage and that the proposed Lot 3 will be 7.32 acres and has 75 feet of road frontage.
7. The Board found that Mr. Fuqua stated that the County Code requires that a lot have at least 150 feet of road frontage and that the proposed Lot 3 will have a greater width towards the rear of the Property as it moves away from the road.
8. The Board found that Mr. Fuqua stated that the Applicants are not trying to create a small lot.
9. The Board found that Mr. Fuqua stated that the situation is unique because there is 10.56 acres of land but only 250 feet of road frontage.
10. The Board found that Mr. Fuqua stated that the lot area that will be 75 feet wide will not be built on nor can it be built on due to an existing Delmarva Power and Light Right of Way.
11. The Board found that Mr. Fuqua stated that the Applicant plans to use the 75 feet wide portion of Lot 3 for a driveway.
12. The Board found that Mr. Fuqua stated that the proposed lots are larger than other lots in the area.
13. The Board found that Mr. Fuqua stated that the variance will not alter the character of the neighborhood.
14. The Board found that Mr. Fuqua stated that the variance requested is the minimum variance to afford relief.
15. The Board found that Mr. Fuqua stated that the reason for the 150 feet lot width requirement was to prevent driveways from being too close together.

16. The Board found that Mr. Fuqua stated that the Applicant may install one (1) or two (2) driveways pursuant to the Delaware Department of Transportation ("DelDOT") regulations and that DelDOT has the final approval for the entrance.
17. The Board found that Mr. Erickson, under oath, confirmed the statements made by Mr. Fuqua.
18. The Board found that Mr. Erickson testified that he owns Sussex County Tax Map Parcel Numbers 1-34-10.00-62.00, 62.08, and 62.09 and that he has proposed real estate contracts on all three properties.
19. The Board found that Mr. Erickson testified that a neighbor is purchasing the proposed Lot 4 so the Property was subdivided to suit the purchaser.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. The Board found that the Sussex County Tax Map Parcel Number for the Property was misidentified on the Application as being Tax Map Parcel Number 1-34-10.00-62.00 when the proper Tax Map Parcel Number is 1-34-10.00-62.09. The advertising and notices for the hearing were based on the incorrect Tax Map Parcel Number and the Application needed to be re-advertised and rescheduled for another hearing.
22. The Board voted to leave the record open to allow the Office of Planning & Zoning to reschedule the hearing and to re-advertise and re-notice the hearing at a date to be determined.
23. After re-advertising and re-noticing the hearing on the Application, the Board heard the Application on November 4, 2013.
24. On November 4, 2013, Laf Erickson was sworn in to testify about the Application and Mr. Erickson's attorney Tim Willard, Esquire, appeared on his behalf.
25. The Board found that Mr. Erickson confirmed the testimony presented at the previous hearing.
26. At the November 4, 2013, meeting, the Board found that one (1) party appeared in support of the Application and that no parties appeared in opposition to the Application.
27. 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 utility right of way and layout of the Property make the Property unique. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief.

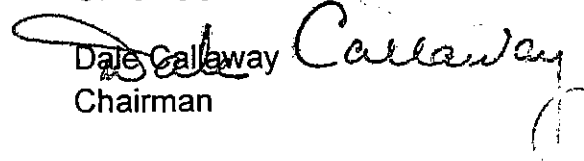
The Board approved the variance application finding that it met the standards for granting a variance.

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

A handwritten signature in cursive script that reads "Dale Callaway". The signature is written in dark ink and is positioned to the right of the printed name "Dale Callaway".

If the use is not established within one (1)
year from the date below the application
becomes void.

Date December 10, 2013