

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RAMEZ GHATTAS & RESHMA NARULA

(Case No. 11275)

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 side yard setback.

Findings of Fact

The Board found that the Applicants were seeking a variance of 1.3 feet from the required ten (10) feet side yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Route One (Coastal Highway) at the east end of Sugar Hill Road (cul-de-sac) 815 feet northeast of Sea Del Drive and being Lot 29 within Sea Del Estates development; said property being identified as Sussex County Tax Map Parcel Number 1-34-9.00-379.00. After a hearing, the Board made the following findings of fact:

1. Bruce Mears and Ramez Ghattas were sworn in to testify about the Application.
2. The Board found that Mr. Mears submitted exhibits to the Board.
3. The Board found that Mr. Mears testified that the Property is an ocean-front lot and that the Applicants recently purchased the Property.
4. The Board found that Mr. Mears testified that the Applicants started the project in April 2013.
5. The Board found that Mr. Mears testified that the Property is odd in shape.
6. The Board found that Mr. Mears testified that the Department of Natural Resources and Environmental Control ("DNREC") moved the building restriction line creating an issue if the original dwelling had to be torn down.
7. The Board found that Mr. Mears testified that the existing structure must stay in place due to DNREC restrictions or the house would need to be removed, in which case, the lot would be unbuildable.
8. The Board found that Mr. Mears testified that the original dwelling does not meet the required setbacks.
9. The Board found that Mr. Mears testified that a Certificate of Compliance was issued on the original dwelling but that the original Certificate of Compliance made no notation of the encroachment.
10. The Board found that Mr. Mears testified that the Applicants plan to renovate and to add on to the existing dwelling.
11. The Board found that Mr. Mears testified that the Applicants do not seek to increase the size of the encroachment and that the existing structure will not be expanded into the setback area.
12. The Board found that Mr. Mears testified that, when the Applicants submitted the plans to Sea Del Estates, the encroachment was discovered.
13. The Board found that Mr. Mears testified that the encroaching portion of the dwelling will not affect any ocean views of neighboring properties.
14. The Board found that Mr. Mears testified that the dwelling will be constructed with modern architecture.
15. The Board found that Mr. Mears testified that the variance will not alter the character of the neighborhood.

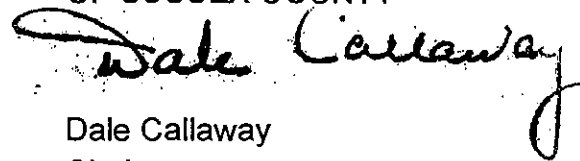
16. The Board found that Mr. Mears testified that the existing structure will be renovated.
17. The Board found that Mr. Mears testified that the difficulty was not created by the Applicants.
18. The Board found that Mr. Mears testified that the Property cannot otherwise be developed.
19. The Board found that Mr. Mears testified that a public dune crossing to the beach runs along the side of the Property.
20. The Board found that Mr. Mears testified that the variance requested is the minimum variance to afford relief.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. The Board found that the Office of Planning & Zoning received one (1) letter of support to the Application from a neighbor.
23. 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 Property is unique in shape and the Certificate of Compliance was issued in 1979. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The Applicants believed that they were in compliance with the Sussex County Zoning Code. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief. The variance sought is the least modification of the regulation at issue.

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 November 5, 2013