

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MACKIE BANKS

(Case No. 11279)

A hearing was held after due notice on October 21, 2013. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 13.6 feet from the thirty (30) feet front yard setback requirement for a proposed attached garage, porch and steps. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property south of Ewing Road 500 feet east of Road 357 (Cedar Neck Road) and being Lot 12A of Bayside Hamlet Subdivision; said property being identified as Sussex County Tax Map Parcel Number 1-34-5.00-305.00. After a hearing, the Board made the following findings of fact:

1. Greg Hastings was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Hastings testified that he has been retained by the Applicant to design a renovation to the Applicant's existing home.
3. The Board found that Mr. Hastings testified that the curvature of Ewing Road creates the need for a variance.
4. The Board found that Mr. Hastings testified that the existing Nanticoke Home is on pilings.
5. The Board found that Mr. Hastings testified that a lagoon is located to the rear of the Property.
6. The Board found that Mr. Hastings testified that the area under the dwelling was enclosed to create more living space but does not meet Federal Emergency Management Agency ("FEMA") requirements and must be removed.
7. The Board found that Mr. Hastings testified that the Applicant's handicapped son lives with her and requires an elevator to access the existing dwelling.
8. The Board found that Mr. Hastings testified that the proposed elevator will be within the proposed attached garage and that the garage will be used for a two (2) cars.
9. The Board found that Mr. Hastings submitted exhibits to the Board for review.
10. The Board found that Mr. Hastings testified that the structural elements of the existing house cannot be renovated to allow for an elevator to be placed within the internal design of the house and that the elevator needs to be outside the footprint of the existing house.
11. The Board found that Mr. Hastings testified that the Homeowners Association supports the Application.
12. The Board found that Mr. Hastings testified that approximately 1,200 square feet of living space will be removed and that the proposed additional living space will be 288 square feet.
13. The Board found that Mr. Hastings testified that the proposed attached garage is needed for wheelchair access during inclement weather and access to the proposed elevator.
14. The Board found that Mr. Hastings testified that the Property cannot otherwise be developed due to the drastic curvature of Ewing Road.
15. The Board found that two (2) parties appeared in support of the Application.

16. The Board found that no parties appeared in opposition to the Application.
17. 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 for the following reasons. The curvature of Ewing Road makes the Property unique. The Applicant needs an accommodation for a disability. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The variance will not alter the essential character of the neighborhood. The variance is not detrimental to the public welfare. 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, 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 December 10, 2013.