

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DANTE LOBATO & WENDY LOBATO

(Case No. 11280)

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 for a thru lot.

Findings of Fact

The Board found that the Applicants were seeking a variance of 22.3 feet from the forty (40) feet front yard setback requirement for an existing shed on a through lot. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property northeast of Route 288 (Will King Road) and being southwest of Amberwood Way and 450 feet south of Aintree Road and being Lot 58 Block A within Chapel Green development; said property being identified as Sussex County Tax Map Parcel Number 2-34-6.00-287.00. After a hearing, the Board made the following findings of fact:

1. Dante Lobato and Jeff Clark were sworn in to testify on behalf of the Application.
2. The Board found that Mr. Clark submitted exhibits to the Board for review.
3. The Board found that Mr. Clark testified that the Property is located in the Chapel Green Development.
4. The Board found that Mr. Clark testified that the Applicants obtained a building permit for a shed earlier in this year and that the shed was constructed off site and delivered to the Property by the contractor.
5. The Board found that Mr. Clark testified that the shed is closer than forty (40) feet from the property line and the Applicants received a violation notice from the Planning and Zoning Inspector that the shed did not meet the required setback requirements.
6. The Board found that Mr. Clark testified that the through lot creates a unique situation because it limits the placement opportunities for accessory buildings.
7. The Board found that Mr. Clark testified that the Property has frontage on Amberwood Way and Route 288.
8. The Board found that Mr. Clark testified that the Property is 10,000 square feet, which is the minimum size for a lot.
9. The Board found that Mr. Clark testified that the existing dwelling is 32 feet from front yard property line on Amberwood Way side and 41 feet from the front yard property line on Route 288 side which only leaves an area measuring two (2) feet by one (1) foot area to place a shed in conformity with the Sussex County Zoning Code.
10. The Board found that Mr. Clark testified that the Property faces the internal subdivision street.
11. The Board found that Mr. Clark testified that these types of through lots are no longer allowed to be created in Sussex County.
12. The Board found that Mr. Clark testified that the Property cannot be otherwise developed.
13. The Board found that Mr. Clark testified that a similar shed is located on a neighboring property subject to a variance approval granted by the Board in 2003.

14. The Board found that Mr. Clark testified that the difficulty was not created by the Applicants.
15. The Board found that Mr. Clark testified that there have been similar variances granted in the development and, therefore, the variance will not alter the character of the neighborhood.
16. The Board found that Mr. Clark testified that there are other sheds located in Chapel Green and that the Homeowners Association supports the Application.
17. The Board found that Mr. Clark submitted a petition of support of the Application which has been signed by fourteen (14) individuals.
18. The Board found that Mr. Clark testified that the shed cannot be seen from the road due to an existing fence and that the shed will not create any site issues for traffic on the adjacent roadway.
19. The Board found that Mr. Clark testified that the shed will not impair the uses of adjacent properties and the variance is not detrimental to the public welfare.
20. The Board found that Mr. Clark testified that the variance 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. 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 Property is a through lot which creates a unique situation. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. The difficulty was not created by the Applicants. The variance will not alter the essential character of the neighborhood. A neighbor has a similar shed on its property. 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