

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ALI KAZEMZADEH

(Case No. 11281)

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 corner front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of five (5) feet from the fifteen (15) feet corner front yard setback requirement for a proposed dwelling. The Applicant has requested that the aforementioned requested special use exception be granted as it pertains to certain real property southwest corner Dune Road and Short Road within Middlesex Beach east of Route One; said property being identified as Sussex County Tax Map Parcel Number 1-34-17 16 52 00. At a hearing, the Board made the following findings of fact:

1. Ali Kazemzadeh w
  2. The Board found th  
a neighbor who of  
Beach Homeowner
  3. The Board found th  
water.
  4. The Board found th  
much living space at  
floors.
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to accommodate a pro
  6. The Board found that I  
development are set ten (10) feet from the property line.
  7. The Board found that Mr. Kazemzadeh testified that his lot is the only one in the community which would have a fifteen (15) feet setback.
  8. The Board found that Mr. Kazemzadeh testified that the proposed location is in keeping with the character of the neighborhood.
  9. The Board found that Mr. Kazemzadeh testified that the Property is currently vacant.
  10. The Board found that Mr. Kazemzadeh testified that he would lose a substantial amount of square footage if the house had to comply with the setback requirements.
  11. The Board found that Mr. Kazemzadeh testified that the house would not fit with the character of the neighborhood if it was built within the setbacks and that a precedent has been set throughout the development.
  12. The Board found that Mr. Kazemzadeh testified that that the Property is unique because it must meet flood zone requirements and cannot have living space below the base flood elevation.
  13. The Board found that Mr. Kazemzadeh testified that both of his parents are in wheelchairs and must have an elevator and wider hallways and doorway access throughout the proposed dwelling.
- Handwritten notes:*  
Email F.O.F.  
Jill@FYCWLAW.com  
Case 11281 sent 12/6/13  
Application.  
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property is close to the  
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14. The Board found that Mr. Kazemzadeh testified that the Property could be developed within the building envelope but that the additional five (5) feet is necessary to accommodate his parents.
15. The Board found that Mr. Kazemzadeh testified that the proposed dwelling will enhance the value of the neighborhood.
16. The Board found that Mr. Kazemzadeh testified that his children ride bikes and the proposed hard surface will increase safety and access to the Property.
17. The Board found that Kathleen McClure was sworn in and testified in opposition to the Application.
18. The Board found that Ms. McClure testified that her husband submitted the letter of opposition.
19. The Board found that Ms. McClure testified that they built their home eleven (11) years ago and that they live two (2) lots behind the Applicant's lot.
20. The Board found that Ms. McClure testified that they built their dwelling within the required setback requirements and that they also have an elevator and a handicapped mother living with them.
21. The Board found that Ms. McClure testified that they have a handicapped home and that they have no first floor living space.
22. The Board found that Ms. McClure testified that they built their house within the confines of the building setbacks.
23. The Board found that Ms. McClure testified that they are concerned the variance request will prohibit the traffic from seeing oncoming traffic.
24. The Board found that Ms. McClure testified that her lot is 150 feet deep and the Applicant's lot is 120 feet deep.
25. The Board found that Mr. Kazemzadeh testified that the proposed dwelling will measure forty (40) feet by seventy (70) feet.
26. The Board found that no persons appeared in support of the Application.
27. The Board found that one (1) person appeared in opposition to the Application.
28. The Board tabled its decision on this Application until November 4, 2013, at which time Mr. Norman Rickard advised the Board that he had reviewed the public record and listened to the audio of the original hearing.
29. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application failed to meet the standards for granting a variance. The variance is not necessary to enable reasonable use of the Property and the difficulty has been created by the Applicant.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

#### Decision of the Board

Upon motion duly made and seconded, the Application was denied. The Board Members voting to deny 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 Deny the Application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

Date December 10, 2013.