

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GARY LISKA & VERONIQUE LISKA

(Case No. 11286)

A hearing was held after due notice on November 4, 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 front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of ten (10) feet from the required thirty (30) feet front yard setback requirement for a proposed two (2) story dwelling. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located southeast corner of Bay Shore Drive and Flounder Avenue (a pedestrian access) and 0.7 mile southeast of Route 16 (Broadkill Road) and being Lot 17 and ½ Lot 18 Old Inlet Beach Section of Broadkill Beach; said property being identified as Sussex County Tax Map Parcel Number 2-35-10.06-28.00. After a hearing, the Board made the following findings of fact:

1. Gary Liska was sworn in to testify about the Application.
2. Tim Willard, Esquire, presented the Application on behalf of the Applicants.
3. The Board found that Mr. Willard stated that the Property is located in Broadkill Beach and that the Applicants purchased the Property in March 2013.
4. The Board found that Mr. Willard stated that the existing non-conforming, one-story dwelling located on the Property has been torn down.
5. The Board found that Mr. Willard stated that the pilings from the previous dwelling remain and the proposed dwelling is to be constructed on the existing pilings.
6. The Board found that Mr. Willard stated that the proposed two (2) story dwelling creates the need for the variance because it is a two (2) story dwelling rather than a one (1) story dwelling and is thus an extension of a non-conforming use.
7. The Board found that Mr. Willard stated that the lot measures seventy five (75) feet by one hundred (100) feet.
8. The Board found that Mr. Willard stated that there is a twenty (20) feet wide beach access on one side of the Property.
9. The Board found that Mr. Willard stated that the rear of the Property borders the Delaware Bay and that the dwelling had a deck on the bayside.
10. The Board found that Mr. Willard stated that the proposed dwelling is consistent with other dwellings in the neighborhood.
11. The Board found that Mr. Willard stated that the non-conforming dwelling creates a unique situation as the dwelling was created before the Sussex County Zoning Code was created.
12. The Board found that Mr. Willard stated that the second story cannot be built over the first floor without a variance.
13. The Board found that Mr. Willard stated that the proposed second story enables reasonable use of the Property.
14. The Board found that Mr. Willard stated that the difficulty was not created by the Applicants.


15. The Board found that Mr. Willard stated that the variance will not alter the essential character of the neighborhood and that the variance sought is the minimum variance necessary to afford relief.
16. The Board found that Mr. Willard stated that the proposed dwelling will not be as tall as other dwellings in the neighborhood and it will meet the Sussex County height requirements.
17. The Board found that Mr. Liska, under oath, confirmed the statements made by Mr. Willard.
18. The Board found that five (5) parties appeared in support of the Application.
19. The Board found that the Office of Planning & Zoning received one (1) letter in support of the Application.
20. The Board found that no parties appeared in opposition to the Application.
21. 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 seventy-five (75) feet wide which makes it unique in size. The variance is necessary to enable reasonable use of the Property. The non-conformity of the pilings 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 variance requested represents 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 December 10, 2013