

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: EDWARD MULHERN

(Case No. 11288)

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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.6 feet from the twenty (20) feet rear yard setback requirement for an existing deck. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Angola Road (Road 277) and being east of Oak Street East 430 feet south of Woodland Circle and also being Lot 30 Angola By The Bay; said property being identified as Sussex County Tax Map Parcel Number 2-34-17.08-200.00. After a hearing, the Board made the following findings of fact:

1. Shannon Carmean Burton, Esquire, presented the Application on behalf of the Applicant.
2. The Board found that Mrs. Burton stated that the Property is located in the Angola by the Bay development and that the Applicant is elderly and unable to attend the hearing but gave his Power of Attorney to his son Joseph Mulhern who was also unable to attend the hearing.
3. The Board found that Mrs. Burton submitted to the Board a copy of Joseph Mulhern's affidavit in support of the Application.
4. The Board found that Mrs. Burton stated that the Applicant purchased the Property in 1977.
5. The Board found that Mrs. Burton stated that the dwelling was constructed in 1985 and the porch was added in 1987.
6. The Board found that Mrs. Burton stated that Certificate of Compliances were issued on all structures.
7. The Board found that Mrs. Burton stated that the Applicant was unaware of the encroachment until a survey completed in preparation of the sale of the Property showed the encroachment.
8. The Board found that Mrs. Burton stated that the Property is unique in shape as it is long and narrow.
9. The Board found that Mrs. Burton stated that the variance is necessary to enable reasonable use of the Property.
10. The Board found that Mrs. Burton stated that the porch has been in its current location since 1987.
11. The Board found that Mrs. Burton stated that the variance will not alter the essential character of the neighborhood.
12. The Board found that Mrs. Burton stated that the use is not detrimental to the public welfare.
13. The Board found that Mrs. Burton stated that the Homeowners Association for Angola by the Bay supports the Application.
14. The Board found that Mrs. Burton stated that the Applicant has not received any complaints about the porch.
15. The Board found that Mrs. Burton stated that the Property cannot otherwise be built in strict conformity with the Sussex County Zoning Code.

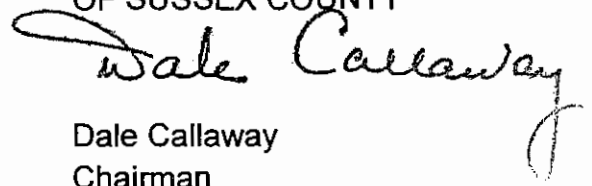
16. The Board found that Mrs. Burton stated that the variance sought is the minimum variance to afford relief.
17. The Board found that Mrs. Burton stated that the variance sought represents the least modification of the regulation at issue.
18. The Board found that Patsy Carpenter was sworn in to testify about the Application and that Ms. Carpenter, under oath, confirmed the statements made by Mrs. Burton.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. 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 size. 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 sought is the minimum variance necessary to afford relief. The variance sought 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