

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LUCIENNE WOLFE

(Case No. 11289)

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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.7 feet from the ten (10) feet side yard setback requirement for an existing enclosed porch. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Plantation Road (Road 275) and being northeast of Lakeside Drive 380 feet north of Plantations Boulevard and being Lot 81 Plantation East development; said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-1196.00. 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 Applicant is 93 years old and lives in the Cadbury and is unable to attend the hearing.
3. The Board found that Mrs. Burton stated that the Property is located in Plantations East.
4. The Board found that Mrs. Burton submitted to the Board a copy of the Applicant's affidavit and copies of a survey of the Property and a Certificate of Compliance.
5. The Board found that Mrs. Burton stated that the Applicant purchased the Property in 1997 and that, during construction, a survey showed the encroachment.
6. The Board found that Mrs. Burton stated that the Applicant advised the builder at that time to change the size of the porch to bring it into compliance with the Sussex County Zoning Code.
7. The Board found that Mrs. Burton stated that the Applicant believed that the porch had been brought into compliance at that time.
8. The Board found that Mrs. Burton stated that the Applicant was not aware that the porch still encroached until a recent survey for settlement was completed.
9. The Board found that Mrs. Burton stated that a Certificate of Compliance was issued in 1997.
10. The Board found that Mrs. Burton stated that the Property is long and narrow which makes it unique in shape.
11. The Board found that Mrs. Burton stated that the variance is necessary to enable reasonable use of the Property.
12. The Board found that Mrs. Burton stated that the variance will not alter the character of the neighborhood.
13. The Board found that Mrs. Burton stated that the porch is not detrimental to the public welfare and that the porch cannot be built in strict conformity with the Sussex County Zoning Code.
14. The Board found that Mrs. Burton stated that the variance is the minimum variance to afford relief.

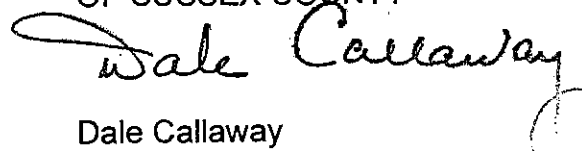
15. The Board found that Mrs. Burton stated that the variance represents the least modification of the regulation at issue.
16. The Board found that Nora Martin was sworn in to testify about the Application.
17. The Board found that Ms. Martin testified that she is a realtor in the area and that she has met with the Applicant on numerous occasions about the Application.
18. The Board found that Ms. Martin confirmed, under oath, 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 narrowness of the lot and the situation make the Property unique. 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 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