

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: JAMES PAOLI & NELLO PAOLI**

**(Case No. 11294)**

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 13.1 feet from the forty (40) feet front yard setback requirement for a sun porch. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located northeast of Route 1 (Coastal Highway) 100 feet northwest of Cullen Street; said property being identified as Sussex County Tax Map Parcel Number 3-34-20.13-45.01. After a hearing, the Board made the following findings of fact:

1. Michael Paoli, Sr. was sworn in to testify about the Application.
2. The Board found that Mr. Paoli, Sr., testified that he is here on behalf of his son.
3. The Board found that Mr. Paoli, Sr., testified that the Applicants want to construct a sun porch for the family because there is no place for his grandchildren to play when the weather is bad.
4. The Board found that Mr. Paoli, Sr., testified that he retained a surveyor to prepare the drawings for the sun porch and that he was advised to apply for a variance when he submitted plans and a survey.
5. The Board found that Mr. Paoli, Sr., testified that he did not know what standards he had to meet in order to be granted a variance and he requested additional time to prepare his case.
6. The Board found that no parties appeared in support of or in opposition to the Application.
7. The Board voted unanimously to leave the case open until November 18, 2013 to allow the Applicants more time to prepare their case.
8. On November 18, 2013, the Board heard additional testimony regarding the Application.
9. Nello Paoli, Nello Paoli, Jr. and Steven Sellers were sworn in to testify about the Application.
10. The Board found that Mr. Paoli, Jr., testified that the dwelling is located on Route 1.
11. The Board found that Mr. Paoli, Jr., testified that the lot is unique since it is part of a condo association where the allocated space for the building does not allow for construction in the rear yard or the side yard.
12. The Board found that Mr. Paoli, Jr., testified that the only place to put the porch is in the front yard.
13. The Board found that Mr. Paoli, Jr., testified that the porch will improve the livability of the home.
14. The Board found that Mr. Paoli, Jr., testified that the Homeowners Association supports the Application.
15. The Board found that Mr. Paoli, Jr., testified that the Property cannot otherwise be developed.

16. The Board found that Mr. Paoli, Jr., testified that the dwelling was built on the front yard setback line thereby limiting an addition to the front of the dwelling,
17. The Board found that Mr. Paoli, Jr., testified that the variance will not alter the character of the neighborhood.
18. The Board found that Mr. Paoli, Jr., testified that the porch will provide extra living space and privacy.
19. The Board found that Mr. Paoli, Jr., testified that the sun porch will not be detrimental to the public welfare.
20. The Board found that Mr. Paoli, Jr., testified that the variance is the minimum variance necessary to afford relief and is the least modification of the regulation at issue.
21. The Board found that Mr. Paoli, Jr., testified that the Applicants cannot make this improvement without the variance.
22. The Board found that Mr. Paoli, Jr., testified that the Applicants were unaware at the time of purchase a porch could not be built without a variance.
23. The Board found that no parties appeared in support of or in opposition to the Application.
24. 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. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. The variance will not alter the essential character of the neighborhood. The variance 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. Mr. Norman Rickard 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 January 28, 2014