

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RALPH KISSINGER AND JOYCE KISSINGER

(Case No. 11309)

A hearing was held after due notice on January 6, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard.

Nature of the Proceedings

This is an application for variances from the front yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 4.5 feet from the required ten (10) feet front yard setback requirement for a proposed attached garage, a variance of five (5) feet from the required ten (10) feet side yard setback requirement for a proposed dwelling and attached garage, and a variance of 7.10 feet from the required ten (10) feet side yard setback requirement for a proposed HVAC unit. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Route 54 (Lighthouse Road) and being east of Laws Point Road 2,250 feet north of Swann Drive, and being Lot 56 Block E, Swann Keys Subdivision; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-275.00. After a hearing, the Board made the following findings of fact:

1. Ralph Kissinger and Joyce Kissinger were sworn in to testify about the Application.
2. Tim Willard, Esquire, presented the case to the Board on behalf of the Applicants.
3. The Board found that Mr. Willard submitted exhibits to the Board.
4. The Board found that Mr. Willard stated that the Applicants have owned the Property since 1972 and that the Applicants intend to build a stick-built house on the lot.
5. The Board found that Mr. Willard stated that the proposed dwelling will measure twenty-four (24) feet by eighty (80) feet and that the lot measures forty (40) feet by ninety-six (96) feet.
6. The Board found that Mr. Willard stated that the lot is narrow and has a lagoon bordering the rear of the lot.
7. The Board found that Mr. Willard stated that the size of the lot makes it unique.
8. The Board found that Mr. Willard stated that the community was set up for singlewide mobile homes.
9. The Board found that Mr. Willard stated that the community has evolved from a singlewide manufactured home community and that most of the manufactured homes in the community have been replaced with similar dwellings.
10. The Board found that Mr. Willard stated that the Property cannot otherwise be developed and that the variances are necessary to enable the reasonable use of the Property.
11. The Board found that Mr. Willard stated that the proposed dwelling will not alter the character of the neighborhood.
12. The Board found that Mr. Willard stated that there have been numerous variances approved in the community.
13. The Board found that Mr. Willard stated that the Applicants plan to have an elevator installed in the attached garage.

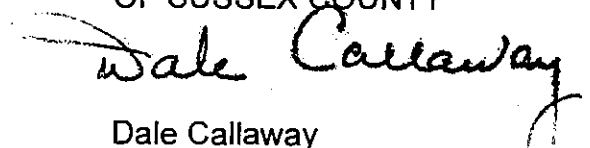
14. The Board found that Mr. Willard stated that the difficulty was not created by the Applicants because the original developer created the lot sizes.
15. The Board found that Mr. Willard stated that the variances sought are the minimum variances necessary to afford relief.
16. The Board found that Mr. Willard stated that the Applicants plan to live on the Property permanently after retirement.
17. The Board found that Mr. and Mrs. Kissinger, under oath, confirmed the statements made by Mr. Willard.
18. The Board found that no parties appeared in support of or in opposition to the Application.
19. 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 for the following reasons. The Property is forty (40) feet wide making it unique. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The variances will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary to afford relief. The variances requested represent the least modification of the regulations 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 deny the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. 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 February 18, 2014