

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MELVIN R. HENNINGER & DILYS HENNINGER

(Case No. 11317)

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 side yard, rear yard, and front yard setback requirements.

Findings of Fact:

The Board found that the Applicants were seeking a variance of 17 feet from the forty (40) feet front yard setback requirement for a proposed deck and steps, a variance of 8.7 feet from the ten (10) feet side yard setback requirement for the existing dwelling, a variance of 8.4 feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a variance of 0.8 feet from the ten (10) feet rear yard setback requirement for a proposed deck and steps. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Road 312 (River Road) 573 feet west of Road 297 (Oak Orchard Road); said property being identified as Sussex County Tax Map Parcel Number 2-34-34.12-64.00. After a hearing, the Board made the following findings of fact:

1. Douglas Annand and Melvin Henninger were sworn in to testify on behalf of the Application.
2. The Board found that Mr. Annand testified that the Applicants are his clients.
3. The Board found that Mr. Annand testified that the Applicants need to raise their dwelling and that flooding is a problem in the neighborhood.
4. The Board found that Mr. Annand testified that the dwelling must be raised five (5) feet to meet flood zone requirements.
5. The Board found that Mr. Annand testified that the dwelling is a one-story dwelling and it sits low to the ground.
6. The Board found that Mr. Annand testified that the proposed decks and steps are needed to access the dwelling after it is raised.
7. The Board found that Mr. Annand testified that the existing dwelling is an older, non-conforming structure.
8. The Board found that Mr. Annand testified that the dwelling was built prior to the enactment of the Sussex County Zoning Code.
9. The Board found that Mr. Annand testified that there will be no further additions to the existing dwelling other than the proposed steps and decks.
10. The Board found that Mr. Annand testified that the flooding and size of the lot make the Property unique.
11. The Board found that Mr. Annand testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Ordinance.
12. The Board found that Mr. Annand testified that the difficulty was not created by the Applicants.
13. The Board found that Mr. Annand testified that the variances will not alter the essential character of the neighborhood and that other homes in the neighborhood have also been elevated.
14. The Board found that Mr. Annand testified that the variances requested are the minimum variances to necessary afford relief.

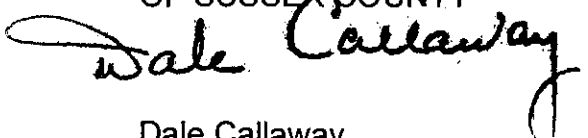
15. The Board found that Mr. Henninger testified that the fence shown on the survey is not owned by the Applicants.
16. The Board found that two (2) parties appeared in support of the Application.
17. The Board found that no parties appeared in opposition to the Application.
18. Based on the findings 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. The flooding to the Property makes it unique. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. 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 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. 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.