

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: WILLIAM BROADFOOT & MARIE BROADFOOT

(Case No. 11319)

A hearing was held after due notice on January 27, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Brent Workman and Mr. Norman Rickard.

Nature of the Proceedings

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

Findings of Fact

The Board found that the Applicants were seeking a variance of five (5) feet from the ten (10) feet side yard setback requirement, a variance of five (5) feet from the twenty (20) feet rear yard setback requirement for a proposed dwelling, and a variance of 8.2 feet from the ten (10) feet side yard setback requirement for proposed HVAC units. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 54 (Lighthouse Road) and being east of Wilson Avenue 600 feet south of Lincoln Drive and being Lot 12 Block 3 within Cape Windsor Subdivision; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-150.00). After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no correspondence regarding the Application.
2. Darrell Grier was sworn in to testify on behalf of the Application.
3. James Fuqua, Esquire, was present to present the Application.
4. The Board found that Mr. Fuqua submitted exhibits to the Board for its consideration.
5. The Board found that Mr. Fuqua stated that Mr. Grier is the contractor for the proposed dwelling.
6. The Board found that Mr. Fuqua stated that the Applicants own Lot 12, Block 3 in Cape Windsor which is on the south side of Route 54.
7. The Board found that Mr. Fuqua stated that the lot is fifty (50) feet wide and the rear yard borders the lagoon.
8. The Board found that Mr. Fuqua stated that the Cape Windsor community was developed as a manufactured home community and that Cape Windsor has unique setback requirements.
9. The Board found that Mr. Fuqua stated that there has been a history in Cape Windsor of replacing mobile homes with larger, modern dwellings.
10. The Board found that Mr. Fuqua stated that the Applicants intend to place a larger dwelling on the Property which dwelling measure 28.4 feet by 65.4 feet.
11. The Board found that Mr. Fuqua stated that the variances will enable reasonable use of the Property in a manner similar to the use of other lots in Cape Windsor.
12. The Board found that Mr. Fuqua stated that the difficulty has been created by the design of the community.
13. The Board found that Mr. Fuqua stated that the variances will not alter the essential character of the neighborhood, since the proposed dwelling will conform to other dwellings in the community.
14. The Board found that Mr. Fuqua stated that there have been numerous variances granted in the development.

15. The Board found that Mr. Fuqua stated that the difficulty was not created by the Applicants.
16. The Board found that Mr. Fuqua stated that the Property cannot otherwise be developed and that the variances are the minimum variances to afford relief.
17. The Board found that Mr. Grier, under oath, confirmed the statements made by Mr. Fuqua.
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. The Property is unique in size. The Property is only fifty (50) feet wide. 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 as there have been other variances granted in the neighborhood. The variances sought are the minimum variances necessary to afford relief. The variances requested are the least modifications 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 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 March 25, 2014.