

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CLYDE BETTS & SON, INC.

(Case No. 11321)

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 and minimum lot width requirements, and a variance to retain a mobile home on less than ten (10) acres.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.973 acres from the ten (10) acre requirement to retain a mobile home, a variance of 4.9 feet from the fifteen (15) feet side yard setback requirement for an existing mobile home, a variance of 25.44 feet from the one hundred fifty (150) feet lot width requirement, a variance of five (5) feet from the one hundred (100) feet setback requirement for an existing hog house, a variance of 71.5 feet from the one hundred (100) feet setback requirement for an existing hog house, a variance of 95.9 feet from the one hundred (100) feet setback requirement for an existing hog house, a variance of 82 feet from the one hundred (100) feet setback requirement for an existing hog house, and a variance of twenty-five (25) feet from the one hundred (100) feet setback requirement for an existing hog house. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 16 (Broadkill Road) 1,834 feet west of Road 233 (Reynolds Road); said property being identified as Sussex County Tax Map Parcel Number 2-35-15.00-26.00(part of). 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. Wesley Betts and Harold Betts were sworn in to testify on behalf of the Application.
3. Bruce Rogers, Esquire, was present to present the Application.
4. The Board found that Mr. Rogers submitted exhibits to the Board for its consideration.
5. The Board found that Mr. Rogers stated that the Property was carved out of a larger parcel in the 1970s for the hog farm and was formally surveyed in the 1990s when Purina required that the Property be separated from the larger parcel for insurance reasons.
6. The Board found that Mr. Rogers stated that the Property is designed as such due to the topography of the land.
7. The Board found that Mr. Rogers stated that the Applicant owns all of the adjacent property.
8. The Board found that Mr. Rogers stated that all structures on the Property pre-date the comprehensive land use plan.
9. The Board found that Mr. Rogers stated that the existing manufactured home is occupied by the on-site farm manager.
10. The Board found that Mr. Rogers stated that the Property is just under the ten (10) acre requirement for the mobile home.
11. The Board found that Mr. Rogers stated that the size and shape of the parcel were designed to preserve the surrounding farmlands.
12. The Board found that Mr. Rogers stated that there would be an exceptional practical difficulty to relocate the existing hog houses.

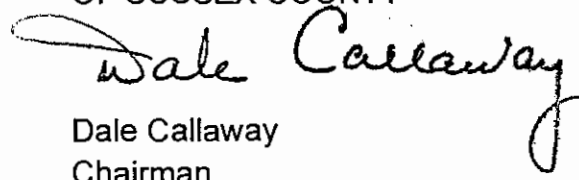
13. The Board found that Mr. Rogers stated that the variances will enable the continued use of the properties and avoid default on loans associated with the Property.
14. The Board found that Mr. Rogers stated that the Applicant did not create the exceptional practical difficulty.
15. The Board found that Mr. Rogers stated that the proposed variances do not interfere with the working farm surrounding the hog farm.
16. The Board found that Mr. Rogers stated that the proposed property will allow both farms to continue "as is."
17. The Board found that Mr. Rogers stated that the surrounding property is in the Farmland Preservation Act and cannot be developed.
18. The Board found that Mr. Rogers stated that the character of the neighborhood would not be affected by the variances as the neighborhood consists of farmland.
19. Mr. Betts, under oath, confirmed the statements made by Mr. Rogers.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. Mr. Betts testified that and that the hog houses have concrete foundations and underground pits for the removal of manure.
22. 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 use of the Property is unique. The Property has been used as a hog farm. The variances are necessary to enable reasonable use of the Property. The difficulty has not been created by the Applicant. 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, 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