

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOSEPH ROY & VIRGINIA ROY, TRUSTEES

(Case No. 11326)

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 a variance from the corner side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of two (2) feet from the fifteen (15) feet corner side yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located southeast of Road 350 (Railway Road) and southwest of Denton Woods Road and northwest of Oakwood Road and being Lot 1 within Denton Woods Subdivision; said property being identified as Sussex County Tax Map Parcel Number 1-34-8.00-325.00. 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. Janice Clark and Michael Roy were sworn in to testify on behalf of the Application.
3. The Board found that Mr. Roy testified that the dwelling on the Property is located thirteen (13) feet from the side yard property line.
4. The Board found that Mr. Roy testified that Ms. Clark and he inherited the Property from their parents through their trust and that they are trying to sell the Property and have found suitable purchasers.
5. The Board found that Mr. Roy testified that their father purchased the Property in 2004 and that the existing dwelling and additions were built in 1995.
6. The Board found that Mr. Roy testified that their father did not make any changes to the Property and that the non-conforming issues pre-date his father's purchase of the Property.
7. The Board found that Mr. Roy testified that the conditions surrounding the Property are unique.
8. The Board found that Mr. Roy testified that the variance is necessary to enable reasonable use of the Property.
9. The Board found that Mr. Roy testified that the need for the variance was not created by the Applicants.
10. The Board found that Mr. Roy testified that an old shed was removed from the Property.
11. The Board found that Mr. Roy testified that the survey completed for settlement showed the encroachment.
12. The Board found that Mr. Roy testified that the variance will not alter the character of the neighborhood.
13. The Board found that Mr. Roy testified that the variance will not impair the uses of the neighboring properties and that the variance is not detrimental to the public welfare.
14. The Board found that Mr. Roy testified that the variance is the least modification possible of the regulation at issue and that the variance requested is the minimum variance to afford relief.

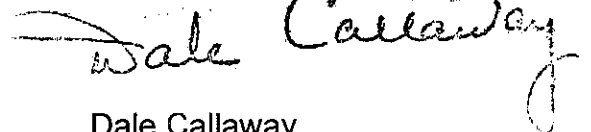
15. The Board found that the dwelling was originally a mobile home and that certificates of compliance were issued for additions to the dwelling.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The situation regarding the Property is unique. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The dwelling was on the Property prior to the Applicants' acquisition of the Property. The variance will not alter the essential character of the neighborhood. The variance will not be detrimental to public welfare. The variance sought 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, 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