

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: RAYMOND LEAK & CLAUDIA LEAK**

**(Case No. 11327)**

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 front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 12.6 feet from the thirty (30) feet front yard setback requirement for an existing shed. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located northeast of Route 54 (Lighthouse Road) and southwest of Janice Circle and 600 feet east of Oliver Drive and being Lot 181 within Bayview Landing Residential Planned Community; said property being identified as Sussex County Tax Map Parcel Number 5-33-13.00-201.00. After a hearing, the Board made the following findings of fact:

1. Raymond Leak, Claudia Leak, and Tom Nuttle were sworn in to testify on behalf of the Application and submitted exhibits to the Board for review.
2. The Board found that Mr. Nuttle testified that he is the builder who obtained the building permit for the shed.
3. The Board found that Mr. Nuttle testified that the Homeowners Association approved the location of the shed.
4. The Board found that Mr. Nuttle testified that he was unaware the shed was not in compliance with Sussex County Zoning Code as he mistakenly thought the Property was a corner lot.
5. The Board found that Mr. Nuttle testified that the shed is located in the front yard to the side of the dwelling.
6. The Board found that Mr. Nuttle testified that he believed the shed was being placed in the side yard, in which case, the shed would have been in compliance.
7. The Board found that Mr. Nuttle testified that his building permit clearly showed the location of the shed.
8. The Board found that Mr. Nuttle testified that the lot is unique in size and shape.
9. The Board found that Mr. Nuttle testified that there is no other location on the Property for the shed.
10. The Board found that Mr. Nuttle testified that the shed had been built on a concrete foundation with footers.
11. The Board found that Mr. Nuttle testified that the variance does not alter the character of the neighborhood.
12. The Board found that Mr. Nuttle testified that the neighbors support the Application.
13. The Board found that Mr. Nuttle testified that the shed to be used for lawn care equipment.
14. The Board found that Patricia Cusak was sworn in and testified in opposition to the Application.
15. The Board found that Ms. Cusak testified that she feels the Applicants must abide by the County rules and that the shed could have been placed elsewhere on the Property without the need for a variance.
16. The Board found that Audrey Pickup was sworn in and testified in support of the Application.

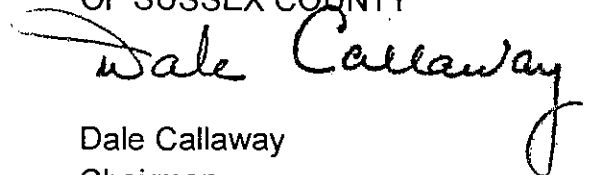
17. The Board found that Ms. Pickup testified that she lives across the street and has been a member of the developments Board of Directors.
18. The Board found that Ms. Pickup testified that the shed was approved by the Architectural Review Board and that she believes the variance request meets the standards for granting a variance.
19. The Board found that Nick Michael was sworn in and testified in support of the Application.
20. The Board found that Mr. Michael testified that the shed looks good and compliments the dwelling.
21. The Board found that Robert Pickup was sworn in and testified in support of the Application.
22. The Board found that Mr. Pickup testified that the shed is well constructed and has a good appearance and that it is not out of character with the neighborhood.
23. The Board found that Rosemary Rogers was sworn in and testified in support of the Application.
24. The Board found that Ms. Rogers testified that she can see the shed from her dwelling and that she has no problem with the location of the shed.
25. The Board found that Dee Michael was sworn in and testified in support of the Application.
26. The Board found that Ms. Michael testified that she lives across the street and the shed is a favorable addition to the neighborhood.
27. The Board found that the Office of Planning & Zoning received eighteen (18) letters in support of the Applicant and no correspondence in opposition to the Application.
28. 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 as it is oddly shaped and has no rear yard. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The variance will not alter the essential character of the neighborhood. 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