

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: REALDAR, LLC

(Case No. 11338)

A hearing was held after due notice on February 17, 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 front yard, side yard, and rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance 18.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling, a variance of 24 feet from the thirty (30) feet front yard setback requirement for an existing porch, a variance of 2.6 feet from the five (5) feet rear yard setback and a variance of 0.8 feet from the five (5) feet side yard setback requirement for an existing shed. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located east of Route One and being southwest of E. Issacs Drive 110 feet northwest of Melson Road and being Lot 23 Midway Park Subdivision; said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-109.00. After a hearing, the Board made the following findings of fact:

1. Barbara Dar was sworn in to testify on behalf of the Application and Kenneth Feaster, Esquire, presented the case on behalf of the Applicant.
2. The Board found that Ms. Dar testified that she owns the Property with her husband through a Limited Liability Company they own.
3. The Board found that Ms. Dar testified that the Applicant purchased the Property on May 27, 2004, and was unaware of any encroachments at that time.
4. The Board found that Ms. Dar testified that she only learned about the setback violations when trying to sell the Property and a recent survey completed for settlement showed the encroachments.
5. The Board found that Ms. Dar testified that the shed and dwelling are on permanent foundations and that the shed is a permanent, framed structure.
6. The Board found that Ms. Dar testified that the shed and a portion of the dwelling would have to be demolished to bring the structures into compliance with the Sussex County Zoning Code.
7. The Board found that Ms. Dar testified that the Applicant would experience an exceptional practical difficulty if the Property was to be required to be brought into compliance with the Sussex County Zoning Code.
8. The Board found that Ms. Dar testified that the Property is narrow and long making it unique.
9. The Board found that Ms. Dar testified that the dwelling lines up with other dwellings in the community and that there are similar sheds in the area.
10. The Board found that Ms. Dar testified that the Applicant is unable to acquire more land to bring the Property into compliance.
11. The Board found that Ms. Dar testified that the variances are necessary to enable reasonable use of the Property.
12. The Board found that Ms. Dar testified that the structures were in their existing location on the Property when the Applicant purchased the Property in 2004.
13. The Board found that Ms. Dar testified that the difficulty was not created by the Applicant.

14. The Board found that Ms. Dar testified that the variances, if granted, will not alter the essential character of the neighborhood.
15. The Board found that Ms. Dar testified that the use is not detrimental to the public welfare.
16. The Board found that Ms. Dar testified that the variances are the least modifications necessary to afford relief.
17. The Board found that Ms. Dar testified that the neighbors have not had any objections to the Application.
18. The Board found that one (1) party appeared in support of the Application.
19. The Board found that no parties appeared in opposition to the Application.
20. Based on the findings above and the testimony and evidence 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 long and narrow which makes it unique. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant as these structures were in their current location when the Applicant purchased the Property. The variances will not alter the essential character of the neighborhood. The structures have been in place since at least 2004. 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