

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOANNE JOHNSON

(Case No. 11339)

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 and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 11.9 feet from the forty (40) feet front yard setback requirement for an existing dwelling, a variance of 11.4 feet from the forty (40) feet front yard setback requirement for an existing shed, and a variance of 2.1 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 southeast of State Road 368 (Beaverdam Road) 600 southwest of Route 362 and being north of Ocean Air Drive at B-11 within Ocean Air Subdivision; said property being identified as Sussex County Tax Map Parcel Number 1-34-16.00-782.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
2. Joanne Johnson was sworn in to testify on behalf of the Application and Raymond Tomasetti, Esquire presented the Application on the Applicant's behalf.
3. The Board found that Mr. Tomasetti stated that the Applicant purchased the Property in 2002 and was unaware of the encroachments at that time.
4. The Board found that Mr. Tomasetti stated that the Applicant's husband has passed away and the Applicant is selling the Property.
5. The Board found that Mr. Tomasetti stated that a survey completed for settlement showed the encroachments.
6. The Board found that Mr. Tomasetti stated that after the Applicant purchased the Property in 2002, the State of Delaware acquired a strip of five (5) feet of the front yard of the Property along Beaverdam Road.
7. The Board found that Mr. Tomasetti stated that, in 1991, a previous owner was granted a 5.5 feet front yard variance.
8. The Board found that Mr. Tomasetti stated that the two (2) sheds were on the Property in their current location when the Applicant purchased the Property.
9. The Board found that Mr. Tomasetti stated that the Property is triangular in shape and is surrounded by three (3) roads.
10. The Board found that Mr. Tomasetti stated that the dwelling was in its current location since at least 1991 and that the Applicant did not create the hardship.
11. The Board found that Mr. Tomasetti stated that the variances are necessary to enable reasonable use of the Property.
12. The Board found that Mr. Tomasetti stated that the sheds cannot be moved into compliance with the Sussex County Zoning Code due to the small building envelope.
13. The Board found that Mr. Tomasetti stated that the variances will not alter the essential character of the neighborhood and that there have been other variances granted in the area.

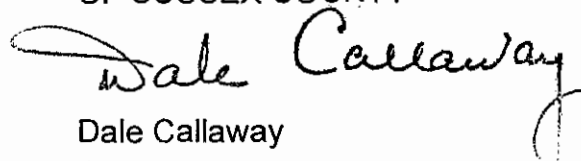
14. The Board found that Mr. Tomasetti stated that the use is not detrimental to the public welfare.
15. The Board found that Mr. Tomasetti stated that the variances sought are the minimum variances to afford relief.
16. The Board found that Ms. Johnson, under oath, confirmed the statements made by Mr. Tomasetti.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. 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 unique as it is triangular in shape and is surrounded by three (3) roads. The Property cannot be otherwise developed in strict conformity with the Sussex County Zoning Code. The variances are necessary to enable the reasonable use of the Property. The difficulty was not created by the Applicant. The structures were in their existing locations when the Applicant purchased the Property and the State of Delaware later acquired portions of the front yard thereby reducing the size of the building envelope. The variances will not alter the essential character of the neighborhood and the testimony reflects that other variances have been granted in the area. 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