

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

**IN RE: SUSAN MCCREARY & DONALD MCCREARY**

**(Case No. 11340)**

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 a variance from the side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 5.8 feet from the ten (10) feet side yard setback requirement for a proposed porch. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located southwest of Route One (Coastal Highway) and being northwest of Ann Avenue 100 feet southwest of South Avenue and being Lot 35 in Poynters Addition Subdivision; said property being identified as Sussex County Tax Map Parcel Number 3-34-20.13-21.00. 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. Susan McCreary and Donald McCreary were sworn in to testify on behalf of the Application.
3. The Board found that Mr. McCreary testified that the Property is in a community where the lots are fifty (50) feet wide by one-hundred (100) feet deep.
4. The Board found that Mr. McCreary testified that the Property has an existing dwelling which encroaches into the setback area.
5. The Board found that Mr. McCreary testified that the proposed porch will line up with the existing dwelling, which is a pre-existing, non-conforming structure.
6. The Board found that Mr. McCreary testified that the Applicants own the adjacent lot on the side where the porch will encroach.
7. The Board found that Mr. McCreary testified that the Applicants are renovating the existing home and the porch will match the dwelling.
8. The Board found that Mr. McCreary testified that the existing dwelling is on a foundation.
9. The Board found that Mr. McCreary testified that the proposed porch will not alter the character of the neighborhood.
10. The Board found that Mrs. McCreary testified that, to build the porch into compliance, would look out of place and not be usable.
11. The Board found that Mr. McCreary testified that the porch will not damage the structure of the existing house.
12. The Board found that no parties appeared in support of or in opposition to the Application.
13. 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 and narrow. The variance is necessary to enable reasonable use of the Property. Attaching a porch to the small existing dwelling is a reasonable use. The difficulty was not created by the Applicants because the lot and existing dwelling are small. The variance will not alter the essential character of the neighborhood; especially since the Applicants own the adjacent property on the south side of the Property.

The variance sought is the minimum variance necessary to afford relief. The variance represents the least modification of the regulation at issue

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