

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

**IN RE: SANDRA D. FRYLING**

**(Case No. 11343)**

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 0.3 feet from the ten (10) feet side yard setback requirement for a non-conforming dwelling and a variance of 5.8 feet from the ten (10) feet side yard setback requirement for an existing shed. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 20 (Concord Road) 300 feet east of Nanticoke Circle and being Lot 4 in Nanticoke Acres Annex Subdivision; said property being identified as Sussex County Tax Map Parcel Number 1-32-2.00-234.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters or correspondence in support of or in opposition to the Application.
2. Sandra Fryling and Patricia Hamstead were sworn in to testify on behalf of the Application.
3. The Board found that Ms. Hamstead testified that the Applicants are sisters and inherited the Property from their parents who purchased the Property in 1951.
4. The Board found that Ms. Hamstead testified that their father constructed the shed in 1984.
5. The Board found that Ms. Fryling testified that they sold the Property earlier this year and Ms. Hamstead testified that a survey completed for the sale of the Property showed the encroachment.
6. The Board found that Ms. Hamstead testified that the prospective buyer would like the existing structures to remain in place.
7. The Board found that Ms. Hamstead testified that the carport attached to the shed lines up with the existing driveway.
8. The Board found that Ms. Hamstead testified that the carport lines up with the driveway and is the only access to that side of the Property.
9. The Board found that Ms. Hamstead testified that the inheritance created a unique situation as they were not aware of the setback violations.
10. The Board found that Ms. Hamstead testified that the variances are necessary to enable reasonable use of the Property.
11. The Board found that Ms. Hamstead testified that the variances will not alter the character of the neighborhood and that the house on the adjacent property is currently vacant.
12. The Board found that Ms. Hamstead testified that the use is not detrimental to the public welfare.
13. The Board found that Ms. Fryling testified that you cannot drive a car through the carport and that the structure was used as storage and a workshop.
14. The Board found that Ms. Fryling testified that her father stored classic cars in the carport and did not use the carport as part of the dwelling.
15. The Board found that Ms. Hamstead submitted pictures to the Board.
16. The Board found that no parties appeared in support of or in opposition to the Application.

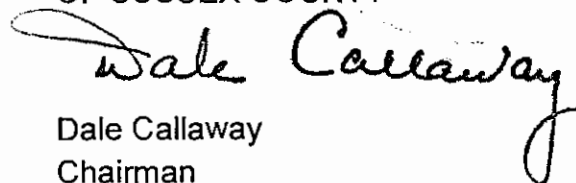
17. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique due to its narrow width. The circumstances are also unique as the existing dwelling was constructed prior to the implementation of the Sussex County Zoning Code and the Applicants inherited the Property from their parents. The variances are necessary to enable reasonable use of the Property as the structures would need to be removed to be brought into compliance with the Sussex County Zoning Code. The difficulty was not created by the Applicants as they inherited the Property. The variances will not alter the essential character of the neighborhood. The structures have been in place for many years and are part of the character of the neighborhood. 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