

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SHARON F. BAILOR

(Case No. 11347)

A hearing was held after due notice on March 24, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.1 feet from the five (5) feet rear yard setback requirement for an existing accessory building. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located southeast of Beaver Dam Road (Road 385) approximately 318 feet southwest of Central Avenue (Route 84) and south of Ocean View; said property being identified as Sussex County Tax Map Parcel Number 1-34-16.00-36.03. After a hearing, the Board made the following findings of fact:

1. Elizabeth Evans-Truitt was sworn in to testify on behalf of the Application and Shannon Carmean Burton, Esquire, was present to present the Application on behalf of the Applicant.
2. The Board found that Ms. Burton presented exhibits to the Board to review.
3. The Board found that Ms. Burton stated that the Applicant's father purchased the Property in 2005 and he passed away in 2012.
4. The Board found that Ms. Burton stated that the Applicant entered into a contract to sell the Property and that the buyer obtained a survey of the Property which showed that an accessory building was located in the setback area.
5. The Board found that Ms. Burton stated that the accessory building was on the Property at the time of the purchase.
6. The Board found that Ms. Burton stated that the accessory building cannot be relocated due to its poor condition.
7. The Board found that Ms. Burton stated that the Applicant was not aware of the encroachment until the survey showed the encroachment.
8. The Board found that Ms. Burton stated that the Property has a unique jagged shape.
9. The Board found that Ms. Burton stated that the difficulty was not created by the Applicant.
10. The Board found that Ms. Burton stated that the variance is necessary to enable reasonable use of the Property.
11. The Board found that Ms. Burton stated that the accessory building will not alter the character of the neighborhood.
12. The Board found that Ms. Burton stated that the accessory building is not detrimental to the public welfare.
13. The Board found that Ms. Burton stated that the Property cannot be brought into strict conformity with the Sussex County Zoning Code.
14. The Board found that Ms. Burton stated that the variance requested is the minimum variance to afford relief.
15. The Board found that Ms. Burton stated that the variance is the least modification of the regulation at issue.
16. The Board found that Ms. Truitt, the realtor for the Applicant, under oath, confirmed the statements made by Ms. Burton.

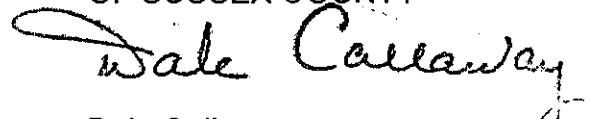
17. The Board found that one (1) party appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is jagged in shape making it unique. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The non-conforming structure was in its current location prior to the Applicant or her father acquiring the Property. The variance will not alter the essential character of the neighborhood. 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 for a variance 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 May 6, 2014