

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ALBERT C. BURNS, JR.

(Case No. 11358)

A hearing was held after due notice on April 14, 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 five (5) feet from the six (6) feet rear yard setback requirement for a proposed sunroom and deck with stairs. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located northeast of Road 299 (Bay Farm Road) and being northeast of Timbercreek Lane 1,200 feet northeast of Shoreview Boulevard and being Lot 239 within Long Neck Shores; said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-1150.00. After a hearing, the Board made the following findings of fact:

1. Albert Burns, Jr., and Ronald Simmons were sworn in to testify on behalf of the Application.
2. The Board found that Mr. Simmons submitted exhibits to the Board to review.
3. The Board found that Mr. Simmons testified that the Applicant wants to build a small sunroom and deck.
4. The Board found that Mr. Simmons testified that the lot is pie shaped and has a curved rear yard property line which makes the Property unique.
5. The Board found that Mr. Simmons testified that the rear yard setback is six (6) feet.
6. The Board found that Mr. Simmons testified that the existing dwelling is elevated and there are currently two (2) sets of steep steps on the rear of the dwelling.
7. The Board found that Mr. Simmons testified that the lot is sloped in the rear yard and that the slope of the rear yard makes it difficult to use.
8. The Board found that Mr. Simmons testified that the Property is adjacent to an existing storm water management pond.
9. The Board found that Mr. Simmons testified that there are no neighbors to the rear yard.
10. The Board found that Mr. Simmons testified that the existing dwelling was built close to the rear yard property line.
11. The Board found that Mr. Simmons testified that the proposed sunroom and deck will allow the Applicant to enjoy and use the backyard of his Property, which is a reasonable use.
12. The Board found that Mr. Simmons testified that the Property cannot be developed in strict conformity with the Sussex County Zoning Code.
13. The Board found that Mr. Simmons testified that the difficulty was not created by the Applicant.
14. The Board found that Mr. Simmons testified that the proposal will not alter the character of the neighborhood.
15. The Board found that Mr. Simmons testified that the proposed sunroom will only be eleven (11) feet wide.
16. The Board found that Mr. Simmons testified that the variance is the minimum variance to afford relief.

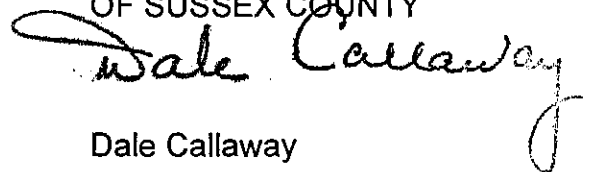
17. The Board found that Mr. Simmons testified that the size of the deck is necessary to have a usable space
18. The Board found that Mr. Burns testified that restrictive covenants limit construction to the sides of the dwelling and limit his ability to build into the side yard.
19. The Board found that Mr. Burns testified that the ponds are controlled and drained during storms to prevent flooding.
20. The Board found that Mr. Simmons testified that the unique shape of the lot creates the difficulty.
21. The Board found that Mr. Burns testified that he needed an eleven (11) feet wide deck to allow for usable space.
22. The Board found that no parties appeared in support of or in opposition to the Application.
23. The Board found that the Office of Planning & Zoning received one (1) letter in opposition to the Application.
24. 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 in shape. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Ordinance. The difficulty was not created by the Applicant. The restrictive covenants of the development limit the Applicant's options. The variance will not alter the essential character of the neighborhood. The variance sought is the minimum variance 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. Norman Rickard, and Mr. Brent Workman. Mr. John Mills 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 20, 2014