

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PAUL L. BLUST & RONALD L. SHEAFFER

(Case No. 11387)

A hearing was held after due notice on May 5, 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 variance from the side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 2.4 feet from the five (5) feet side yard setback requirement for an existing pergola, a variance of 0.8 feet from the ten (10) feet side yard setback requirement for an existing pool, a variance of 0.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of five (5) feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a variance of 2.1 feet from the ten (10) feet side yard setback requirement for an existing screen porch. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located southeast of Mercer Avenue 150 feet northeast of Route 279A and being Lot 4 of the Ira B. Phillips Subdivision; said property being identified as Sussex County Tax Map Parcel Number 2-34-35.05-127.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received two (2) letters in support of the Application and one (1) other letter regarding the Application.
2. Paul Blust and Don Miller were sworn in to testify on behalf of the Application.
3. The Board found that Mr. Miller testified that the lot is fifty (50) feet wide and has been developed for many years.
4. The Board found that Mr. Miller testified that the dwelling was built in 1922 and that the other additions were built over the years including a pool and screen porch.
5. The Board found that Mr. Miller testified that the pool was constructed in 1988 and that the Applicants obtained building permits for the pool and porch.
6. The Board found that Mr. Miller testified that the Applicants were not aware the pergola needed to meet the setback requirements and that the pergola has been on the lot for ten (10) years.
7. The Board found that Mr. Miller testified that the house was built prior to the passing of the Sussex County Zoning Ordinance and the screen porch was constructed in line with the existing dwelling.
8. The Board found that Mr. Miller testified that two (2) different surveys have different measurements and created a shift in the property lines.
9. The Board found that Mr. Miller testified that the property markers were moved when the sewer lines were installed.
10. The Board found that Mr. Miller testified that the new property lines are angled differently now as the lots approach the road and these different angles have caused problems with setback requirements.
11. The Board found that Mr. Miller testified that the difficulty has not been created by the Applicants.
12. The Board found that Mr. Miller testified that the use is not detrimental to the public welfare and that the variances do not alter the character of the neighborhood.

13. The Board found that Mr. Miller testified that the Property is well maintained.
14. The Board found that two (2) parties appeared in support of the Application.
15. 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 unique in size and it is adjacent to the Indian River. The evidence demonstrates that property markers have been moved over time and the newer markers have led to some issues with setbacks. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. The difficulty was not created by the Applicants. The existing dwelling was placed on the Property prior to the Applicants' acquisition thereof and the Applicants did not move the property markers. The variances will not alter the essential character of the neighborhood. The structures have been in place for many years and likely contribute to 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 June 3, 2014