

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SUSAN J. TULLOCH, TRUSTEE OF THE SUSAN J. TULLOCH REVOCABLE TRUST

(Case No. 11390)

A hearing was held after due notice on May 19, 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 front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 11.9 feet from the required thirty (30) feet front yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located 375 feet east of Road 278 (Angola Road) on the northerly side of Baylis Drive, a private street, Baylis Road being approximately 1.0 mile south of Road 277 (Angola Road) (911 Address: 33669 Baylis Road, Lewes, Delaware); said property being identified as Sussex County Tax Map Parcel Number 2-34-18.00-16.00. 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. Debra Waters was sworn in to testify on behalf of the Application and Chad Meredith, Esquire, presented the case to the Board on behalf of the Applicant.
3. The Board found that Mr. Meredith submitted exhibits to the Board.
4. The Board found that Mr. Meredith stated that the Property is located in the Tall Pines subdivision.
5. The Board found that Mr. Meredith stated that the subdivision was created in 1958 and that the lots in the subdivision are twenty-five (25) feet wide.
6. The Board found that Mr. Meredith stated that the Property consists of four (4) lots in the subdivision.
7. The Board found that Mr. Meredith stated that, based on property records, the dwelling was constructed in 1972.
8. The Board found that Mr. Meredith stated that the Susan Tulloch acquired an interest in the Property in 1985 and the Property was transferred to her trust in 2013.
9. The Board found that Mr. Meredith stated that the neighboring dwellings are at a similar distance from the front yard property lines.
10. The Board found that Mr. Meredith stated that the Applicant believes the measurements were taken from the pavement and not the property line when the dwelling was constructed.
11. The Board found that Mr. Meredith stated that the subdivision was created prior to the enactment of the Sussex County Zoning Code.
12. The Board found that Mr. Meredith stated that the Property is unique because it slopes in the rear yard.
13. The Board found that Mr. Meredith stated that the dwelling at its current location meets the flood zone requirements.
14. The Board found that Mr. Meredith stated that moving the home would create a hardship as it would be expensive to move the house and it may result in the house being placed in a flood zone.

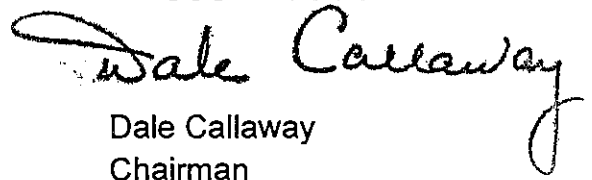
15. The Board found that Mr. Meredith stated that the variance is necessary to enable reasonable use of the Property.
16. The Board found that Mr. Meredith stated that the difficulty was not created by the Applicant as a previous owner placed the dwelling.
17. The Board found that Mr. Meredith stated that the variance does not alter the character of the neighborhood as there are other similarly situated dwellings in the neighborhood.
18. The Board found that Mr. Meredith stated that the use does not impair the uses of adjacent and neighboring properties.
19. The Board found that Mr. Meredith stated that the use is not detrimental to the public welfare.
20. The Board found that Mr. Meredith stated that the variance is the least modification to regulate the issue.
21. The Board found that Mr. Meredith stated that the variance sought is the minimum variance necessary to afford relief.
22. The Board found that Ms. Waters testified that she is a realtor in the Lewes area.
23. The Board found that Ms. Waters testified that she is familiar with the Property and its surrounding area and that the dwelling does not have an adverse effect on the value of neighboring properties.
24. The Board found that Ms. Waters, under oath, confirmed the statements of Mr. Meredith as being true and correct.
25. The Board found that one (1) party appeared in support of the Application.
26. The Board found that no parties appeared in opposition to the Application.
27. 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 sloping rear yard. The Property is adjacent to Herring Creek and it is also in a flood zone which further makes the Property unique. The variance is necessary to enable reasonable use of the Property. The existing dwelling is a reasonable use of the Property. The difficulty was not created by the Applicant as the dwelling was placed on the Property by a prior owner many years ago. The variance will not alter the essential character of the neighborhood. The house has been in its current location since 1972 and there are other similarly situated homes in 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 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 July 8, 2014