

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HARRIET M. WARD

(Case No. 11395)

A hearing was held after due notice on June 2, 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 eighteen (18) feet from the forty (40) feet front yard setback requirement for an existing dwelling, steps, and landing. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located southeast of Ward Road (Road 283A) 0.4 mile southwest of Cedar Grove Road (Road 283) (911 Address: 20009 Ward Road, Lewes, Delaware); said property being identified as Sussex County Tax Map Parcel Number 3-34-11.00-99.00. 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. Harriet Ward was sworn in to testify on behalf of the Application.
3. The Board found that Ms. Ward testified that the front yard setback requirement noted on her building permit was incorrect.
4. The Board found that Ms. Ward testified that she believed that the setback requirement was thirty (30) feet when it was actually forty (40) feet.
5. The Board found that Ms. Ward testified that she built the dwelling based on the thirty (30) feet setback line.
6. The Board found that Ms. Ward testified that she was not aware of the mistake until receiving a letter from the Sussex County Zoning Inspector of the encroachment.
7. The Board found that Ms. Ward testified that the Property is unique because it is wide in the front but is only eighty-eight (88) feet deep.
8. The Board found that Ms. Ward testified that the size of the lot makes it difficult to build in strict conformity with the Sussex County Zoning Code.
9. The Board found that Ms. Ward testified that the difficulty was not created by her.
10. The Board found that Ms. Ward testified that the variance will not alter the essential character of the neighborhood.
11. The Board found that Ms. Ward testified that the use will not be detrimental to the public welfare.
12. The Board found that Ms. Ward testified that the variance will enable reasonable use of the Property.
13. The Board found that Ms. Ward testified that the variance is the minimum variance to afford relief.
14. The Board found that no parties appeared in support of or in opposition to the Application.
15. 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 shallow depth. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The variance is necessary to enable reasonable

use of the Property. The difficulty was not created by the Applicant. The Applicant applied for and obtained a building permit that incorrectly listed the setback requirements. The Applicant constructed the improvements based on what she thought was the proper setback requirement. It is clear that the Applicant relied on Sussex County for proper setback information and that the information provided was incorrect and resulted in the need for the variance. 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. 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 22, 2014