

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: THOMAS F. DUNKIN & BETTIE J. DUNKIN

(Case No. 11396)

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 variances from the front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 7.5 feet from the thirty (30) feet front yard setback requirement for an existing porch and a variance of 1.6 feet from the thirty (30) feet front yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Route 26 (Vines Creek Road) and being north of Arrow Drive, 107.14 feet east of Trails End and being more specifically Lot 3 Block Q in Blackwater Village Subdivision (911 Address: 34023 Arrow Drive, Dagsboro, Delaware); said property being identified as Sussex County Tax Map Parcel Number 1-34-11.00-263.00. 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. Thomas Dunkin and Bettie Dunkin were sworn in to testify on behalf of the Application and Raymond Tomasetti, Esquire, presented the Application to the Board.
3. The Board found that Mr. Tomasetti submitted exhibits to the Board to review.
4. The Board found that Mr. Tomasetti stated that the Applicants recently purchased the Property.
5. The Board found that Mr. Tomasetti stated that the previous owner was likely unaware of the encroachments.
6. The Board found that Mr. Tomasetti stated that the Property has an existing wetland area and that area cannot be built upon.
7. The Board found that Mr. Tomasetti stated that the house and the porch encroach into the setback area.
8. The Board found that Mr. Tomasetti stated that there are only three (3) dwellings on the street.
9. The Board found that Mr. Tomasetti stated that the wetlands make the Property unique.
10. The Board found that Mr. Tomasetti stated that the difficulty was not created by the Applicants.
11. The Board found that Mr. Tomasetti stated that the variances will not alter the essential character of the neighborhood.
12. The Board found that Mr. Tomasetti stated that the dwelling was built in 1984 and an existing detached garage was built in 1987.
13. The Board found that Mr. and Mrs. Dunkin, under oath, confirmed the statements made by Mr. Tomasetti.
14. The Board found that Mr. Dunkin testified that there is no buildable area east of the house.
15. The Board found that Mr. Dunkin testified that the road is a dead end road.
16. The Board found that Mr. Dunkin testified that a retaining wall made of wood separates the upland from the marshland.


17. The Board found that Mr. Dunkin testified that all neighbors support the Application.
18. The Board found that no parties appeared in support of or in opposition to the Application.
19. 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 existence of the wetlands and shape of the Property make it unique. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants as a previous owner placed the dwelling and porch on the Property. The variances will not alter the essential character of the neighborhood. The structures have been on the Property for many years and there is no evidence that the structures affect the character of the neighborhood. The variances sought are the minimum variances necessary to afford relief. The variances represent the least modifications of the regulations 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 22, 2014