

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: RANDY HITCHENS & TRACIE HITCHENS**

**(Case No. 11401)**

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 side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of three (3) feet from the fifteen (15) feet side yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Road 324 (Sussex Pines Road) and being north of Putter Lane and east of Fairway Avenue and more specifically Lot 64 in Country Club Estates Subdivision (911 Address: 22525 Putter Lane, Georgetown, 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. Tracie Hitchens was sworn in to testify on behalf of the Application.
3. The Board found that Ms. Hitchens submitted exhibits to the Board to review.
4. The Board found that Ms. Hitchens testified that the dwelling was constructed twelve (12) years ago.
5. The Board found that Ms. Hitchens testified that they discovered, during the process of refinancing their loan, that the dwelling encroached into the side yard setback area.
6. The Board found that Ms. Hitchens testified that a Certificate of Compliance was issued for the dwelling in 2002.
7. The Board found that Ms. Hitchens testified that the corner lot is unique.
8. The Board found that Ms. Hitchens testified that the variance will enable reasonable use of the Property.
9. The Board found that Ms. Hitchens testified that the difficulty was not created by the Applicants.
10. The Board found that Ms. Hitchens testified that the variance does not alter the essential character of the neighborhood.
11. The Board found that Ms. Hitchens testified that variance is the minimum variance to afford relief.
12. The Board found that Ms. Hitchens testified that the Applicants are not seeking to make any additions to the dwelling.
13. The Board found that Ms. Hitchens testified that the Applicants relied on a builder to place the dwelling and assumed that the dwelling was placed properly.
14. The Board found that Ms. Hitchens testified that the survey from 2002 is not clear as it appears that the dwelling is eighteen (18) feet from the side property line when it is actually twelve (12) feet.
15. The Board found that Ms. Hitchens testified that the adjacent property is vacant.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. 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 a corner lot which makes it unique. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The Applicants relied on a builder to place the dwelling on the Property in compliance with the Sussex

County Zoning Code and believed that the builder had done so. A certificate of compliance was issued by the County which further led the Applicants to believe that the dwelling was in compliance. The variance will not alter the essential character of the neighborhood. The dwelling has been on the Property for twelve (12) years and no new additions are being sought. The variance sought is the minimum variance necessary to afford relief. The variance requested 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 22, 2014