

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HEATHER MORGAN & ALLAN FREEDMAN

(Case No. 11403)

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 side yard and front yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 7.4 feet from the thirty (30) feet front yard setback requirement for a dwelling, and a variance of 4.7 feet from the ten (10) feet side yard setback requirement for both side yards for a dwelling. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located 400 feet southwest of Route 1 (Coastal Highway) and being southeast of Elizabeth Avenue and being 500 feet northeast of Dodd Avenue and being more specifically Lot 13 and 15 Block D of Ann Acres Subdivision (911 Address: 21069 Elizabeth Avenue, Rehoboth Beach, Delaware); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.13-122.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no correspondence regarding the Application.
2. Allan Freedman was sworn in to testify on behalf of the Application.
3. The Board found that Mr. Freedman submitted exhibits to the Board to review.
4. The Board found that Mr. Freedman testified that the existing dwelling was built in the 1960s by his wife's grandparents and that the grandparents purchased three (3) lots in 1959.
5. The Board found that Mr. Freedman testified that later an issue was discovered with the property markers and the dwelling straddled the property lines.
6. The Board found that Mr. Freedman testified that his wife's mother passed away in 2012 leaving the Property owned by six (6) heirs and that the Applicants purchased the Property from the remaining heirs.
7. The Board found that Mr. Freedman testified that they plan to subdivide the Property into two lots and to relocate the dwelling to Lot 15 and sell Lot 13.
8. The Board found that Mr. Freedman testified that the sale of Lot 13 will help them pay for the dwelling and keep the Property in the family.
9. The Board found that Mr. Freedman testified that that the house is a Cape Cod style house.
10. The Board found that Mr. Freedman testified that other houses in the neighborhood are much larger structures.
11. The Board found that Mr. Freedman testified that there is an existing half basement under the dwelling.
12. The Board found that Mr. Freedman testified that the Applicants plan to use a portion of the existing foundation and half basement when relocating the dwelling to Lot 15.
13. The Board found that Mr. Freedman testified that the proposed relocation of the dwelling will result in the least amount of disturbance to the Property.
14. The Board found that Mr. Freedman testified that moving the house into compliance with the setback requirements would result in the need to destroy the existing basement and foundation.
15. The Board found that Mr. Freedman testified that the proposed location of the dwelling will not further encroach on the front yard setback more than it already does.

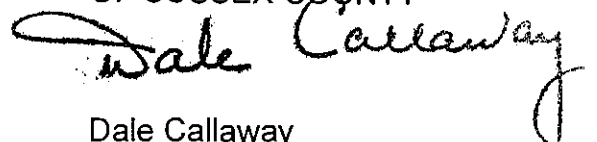
16. The Board found that Mr. Freedman testified that the existing structure will not alter the character of the neighborhood.
17. The Board found that Mr. Freedman testified that there are other, more imposing, houses in the neighborhood.
18. The Board found that Mr. Freedman testified that the difficulty was not created by the Applicants.
19. The Board found that Mr. Freedman testified that the original surveyor made a mistake in surveying the lot, which caused the house to be placed incorrectly.
20. The Board found that Mr. Freedman testified that the use is not detrimental to the public welfare and will not impair the uses of neighboring and adjacent properties.
21. The Board found that Mr. Freedman testified that the front yard will be graveled for parking.
22. The Board found that Mr. Freedman testified that the variances are the least modifications possible of the regulation at issue.
23. The Board found that no parties appeared in support of or in opposition to the Application.
24. 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. The difficulty was not created by the Applicants. The house was originally to be constructed on the center lot but was not built there due to a surveying error. The variances are necessary to enable reasonable use of the Property as the variances will allow the Applicants to move the existing dwelling onto Lot 15 with the least possible disturbance to Lots 13, 15, and the neighborhood. The variances will not alter the essential character of the neighborhood. The existing dwelling has been in its present location for many years and other homes in the neighborhood are much larger and imposing than the Applicant's house. The shifting of the existing dwelling and subdivision of the lots will not alter 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 July 22, 2014