

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

**IN RE: GARY BROADWAY and CHERYL BROADWAY**

**(Case No. 11404)**

A hearing was held after due notice on June 16, 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, rear yard and front yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 34.5 feet from the forty (40) feet front yard setback requirement for an existing deck and steps, a variance of 22.2 feet from the forty (40) feet front yard setback requirement for an existing dwelling, a variance of 7.9 feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a variance of 3.7 feet from the ten (10) feet rear yard setback requirement for an existing detached garage. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Road 312 (River Road) 570 feet west of Route 5 (Oak Orchard Road) (911 Address: 32561 River Road, Millsboro, Delaware); said property being identified as Sussex County Tax Map Parcel Number 2-34-34.12-7.00. 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. Gary Broadway was sworn in to testify on behalf of the Application and Manaen Robinson, Esquire, appeared on behalf of the Applicant.
3. The Board found that Mr. Robinson stated that the Applicants purchased the Property on April 11, 2014, and that the survey completed for settlement showed the encroachments.
4. The Board found that Mr. Robinson stated that the existing dwelling, front deck, steps, and garage encroach into the setback areas.
5. The Board found that Mr. Robinson stated that the existing dwelling was built in 1949 and the detached garage was built in the 1973.
6. The Board found that Mr. Robinson stated that the deck was built in 2010.
7. The Board found that Mr. Robinson stated that the Applicants would need to remove the structures in order to comply with the setback requirements.
8. The Board found that Mr. Robinson stated that the Property is unique since the dwelling is non-conforming.
9. The Board found that Mr. Robinson stated that the variances will enable reasonable use of the Property.
10. The Board found that Mr. Robinson stated that the difficulty was not created by the Applicants.
11. The Board found that Mr. Robinson stated that the variances will not alter the character of the neighborhood.
12. The Board found that Mr. Robinson stated that there are numerous non-conforming structures in the area.
13. The Board found that Mr. Robinson stated that the variances will not impair the uses of neighboring and adjacent properties.
14. The Board found that Mr. Robinson stated that the variances are the minimum variances to afford relief.
15. The Board found that Mr. Broadway confirmed the statements made by Mr. Robinson as being true and correct.
16. The Board found that no parties appeared in support of or in opposition to the Application.

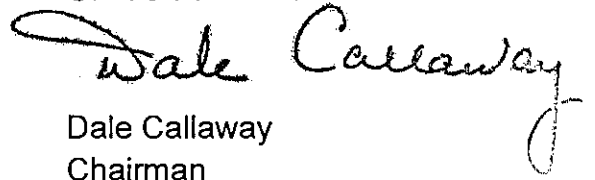
17. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The development of the Property and the surrounding properties make the Property unique. The front property line is also angled in a unique fashion. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. The variances are necessary to enable reasonable use of the Property. In order to bring the Property into compliance with the Sussex County Zoning Code, the Applicants would need to remove the structures. The difficulty was not created by the Applicants. The structures were in their current locations when the Applicants purchased the Property. The variances will not alter the character of the neighborhood. The dwelling and garage have been in their current locations for many years and there are similar non-conforming structures in the neighborhood. The variances requested are not detrimental to the public welfare. 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 August 5, 2014.