

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY
IN RE: CHERYL MCDERMOTT & EILEEN R. WELSH**

(Case No. 11413)

A hearing was held after due notice on July 7, 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 3.5 feet from the ten (10) feet side yard setback requirement for an existing second floor set of steps. This application pertains to certain real property located north of Route 54 (Lighthouse Road) and being southeast of Blue Teal Road 0.35 mile north of Swann Drive and being Lot 45-B in Swann Keys Subdivision (911 Address: 37078 Blue Teal Road, Selbyville, Delaware); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-472.00. After a hearing, the Board made the following findings of fact:

1. Cheryl McDermott and Eileen Welsh were sworn in to testify about the Application.
2. The Board found that Ms. Welsh testified that there is a deck on top of the existing carport and that the stairs leading to the deck encroach into the side yard setback area.
3. The Board found that Ms. Welsh testified that their builder obtained the building permit.
4. The Board found that Ms. Welsh testified that the lot is only forty (40) feet wide.
5. The Board found that Ms. Welsh testified that the existing manufactured home is only twenty (20) feet wide and the size of the manufactured home was designed to keep from needing any variances.
6. The Board found that Ms. Welsh testified that the Applicants were unaware of the need for the variance and would have applied for a variance prior to construction had they been aware of the need.
7. The Board found that Ms. Welsh testified that the steps would not have a negative effect on adjacent property.
8. The Board found that Ms. Welsh testified that the adjacent lot is vacant and has an existing wetland area.
9. The Board found that Ms. Welsh testified that the Applicants maintain the adjacent lot even though they do not own it and that the owners of the lot have no plans to build on the adjacent lot.
10. The Board found that Ms. Welsh testified that the second floor steps do not encroach any further than the steps that give access to the manufactured home.
11. The Board found that Ms. Welsh testified that other homes in the neighborhood have similar steps.
12. The Board found that Ms. Welsh testified that the variance will not alter the character of the neighborhood.
13. The Board found that Ms. Welsh testified that the variance will enable reasonable use of the Property.
14. The Board found that Ms. Welsh testified that the steps were not built on the opposite side in order to leave room to add on to the existing carport in the future.
15. The Board found that Ms. Welsh testified that the difficulty was not created by the Applicants.

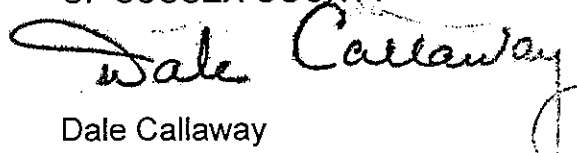
16. The Board found that Ms. Welsh testified that the use is not detrimental to the public welfare.
17. The Board found that Ms. Welsh testified that the variance is the least modification possible the regulation at issue.
18. The Board found that Ms. Welsh testified that the variance is the minimum variance to afford relief.
19. The Board found that the Applicants submitted pictures for the Board to review.
20. The Board found that Ms. McDermott testified that the Applicants were unaware of the encroachment until the final inspection by the Sussex County Zoning Inspector.
21. The Board found that Ms. McDermott testified that the Applicants were told that the final blueprints were approved but did not realize that the blueprints did not include the second floor steps.
22. The Board found that Ms. McDermott testified that the Applicants relied on their builder to build in compliance with the Sussex County Zoning Code.
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 as it is only forty (40) wide. The variance is necessary to enable reasonable use of the Property as the steps afford the Applicants access to the second floor deck. The difficulty was not created by the Applicants. The Applicants relied on their builder to build the steps in compliance with the Sussex County Zoning Code and the builder failed to do so. The variance will not alter the essential character of the neighborhood. Other similar variances have been granted in the neighborhood and the adjacent property is a vacant lot consisting of wetlands. The variance sought is the minimum variance necessary to afford relief.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance 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 September 9, 2014.

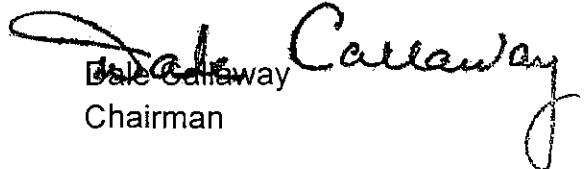
met the standards for granting a variance. The Property is only forty (40) feet wide which makes it unique. The size of the Property limits the available building envelope and the proposed dwelling is a reasonably sized dwelling. The variances are necessary to enable reasonable use of the Property. The dwelling could not be placed on the Property without the variances. The difficulty was not created by the Applicants. The Applicants did not create the size of the lot and the character the community has evolved since it was originally developed years ago. The variances will not alter the essential character of the neighborhood. The proposed dwelling will be consistent with other dwellings in 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 September 23, 2014