

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KATHLEEN A. VERANO

(Case No. 11417)

A hearing was held after due notice on July 21, 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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 2.5 feet from the ten (10) feet rear yard setback requirement for an existing porch. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located northwest of Road 283A (Ward Road) and being southwest of Cedarwood Lane and being more specifically Lot 2 Beachwoods II Subdivision. (911 Address: 33048 Cedarwood Lane, Lewes, Delaware); said property being identified as Sussex County Tax Map Parcel Number 3-34-11.00-106.00. 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. Kathleen A. Verano was sworn in to testify on behalf of the Application and Kenneth Feaster, Esquire, appeared on behalf of the Applicant.
3. The Board found that Mr. Feaster submitted a survey of the Property.
4. The Board found that Ms. Verano testified that she is the owner of the Property and that she is requesting a variance of 2.5 feet from the ten (10) feet rear yard setback requirement for an existing porch.
5. The Board found that Ms. Verano testified that the Applicant purchased the Property on October 25, 1997.
6. The Board found that Ms. Verano testified that she hired a licensed builder to construct the dwelling in 2001 and that she hired a contractor in 2004 to build an enclosed porch on the rear of the dwelling.
7. The Board found that Ms. Verano testified that the builders obtained building permits and that Certificates of Compliance were issued for the dwelling and the porch.
8. The Board found that Ms. Verano testified that on April 26, 2014, she entered an Agreement of Sale to sell the Property.
9. The Board found that Ms. Verano testified that a survey completed for settlement showed the encroachment into the rear yard setback area and that she was unaware of the encroachments prior to the survey.
10. The Board found that Ms. Verano testified that the porch and dwelling are located on permanent foundations.
11. The Board found that Ms. Verano testified that the existing shed has been moved into compliance with the Sussex County Zoning Code.
12. The Board found that Ms. Verano testified that the porch addition is a permanent structure.
13. The Board found that Ms. Verano testified that the dimensions of the lot and existing location of the dwelling create a unique circumstance.
14. The Board found that Ms. Verano testified that the Applicant faces exceptional practical difficulty if made to demolish the existing porch addition.
15. The Board found that Ms. Verano testified that the variance is necessary to enable reasonable use of the Property.
16. The Board found that Ms. Verano testified that the circumstances which led to the need for the variance are unique.

17. The Board found that Ms. Verano testified that she cannot bring the structures into compliance with the Sussex County Code without demolishing the shed.
18. The Board found that Ms. Verano testified that the difficulty was not created by the Applicant.
19. The Board found that Ms. Verano testified that she hired a contractor to construct the porch and that a location survey in 2001 was used to determine the location of the property lines.
20. The Board found that Ms. Verano testified that the porch does not alter the character of the neighborhood since the porch has been a part of the Property since 2006.
21. The Board found that Ms. Verano testified that neighbors were not aware of the encroachment until recently.
22. The Board found that Ms. Verano testified that the use is not detrimental to the public welfare.
23. The Board found that Ms. Verano testified that the request is the minimum variance necessary to afford relief.
24. The Board found that Ms. Verano testified that the variance would be the least modification possible of the regulation in issue.
25. The Board found that Ms. Verano testified that the neighbors have no objection to the Application.
26. The Board found that three (3) parties appeared in support of the Application.
27. The Board found that no parties appeared in opposition to the Application.
28. 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 due to its shape and the proximity to the cul-de-sac. The variance is necessary to enable reasonable use of the Property. If the variance was not granted, the Applicant would need to demolish the porch, which is on a permanent foundation, in order to bring it into compliance with the Sussex County Zoning Code. The difficulty was not created by the Applicant. The Applicant relied on a licensed contractor to construct the porch in compliance with the Sussex County Zoning Code and a Certificate of Compliance was issued for the porch. The variance will not alter the essential character of the neighborhood. The porch has been in its current location for many years. The variance sought is the minimum variance to afford relief. The variance 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 September 9, 2014