

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: THE BAY HOUSE, LLC

(Case No. 11422)

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 variances from the rear yard and front yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5.6 feet from the thirty (30) feet front yard setback requirement for an existing pergola and porch and a variance of 10.1 feet from the twenty (20) feet rear yard setback requirement for an existing second floor deck. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located south Road 277 (Angola Road) and being west of Oak Street, 120 feet south of Oak Street West and being Lot 40 Block C within Angola-By-The-Bay Subdivision. (911 Address: 23528 Oak Street E, Millsboro, Delaware); said property being identified as Sussex County Tax Map Parcel Number 2-34-17.08-190.00. After a hearing, the Board made the following findings of fact:

1. James DeMaio was sworn in to testify on behalf of the Application and Norman Barnett, Esquire, appeared on behalf of the Applicant.
2. The Board found that Mr. DeMaio testified that the Applicant purchased the Property in May 2014.
3. The Board found that Mr. DeMaio testified that the Property is for personal use and will not be rented.
4. The Board found that Mr. Barnett submitted a copy of a letter from the Angola by the Bay Property Owners Association which demonstrates that the Association does not object to the Application.
5. The Board found that Mr. DeMaio testified that the second floor deck existed when the previous owner purchased the Property in 1992.
6. The Board found that Mr. DeMaio testified that the previous owner replaced the second floor deck and constructed the porch and overhang in 1992.
7. The Board found that Mr. DeMaio testified that the previous owner was unaware of any encroachments.
8. The Board found that Mr. DeMaio testified that there have been no complaints from neighbors.
9. The Board found that Mr. DeMaio testified that the variances will not alter the character of the neighborhood.
10. The Board found that Mr. DeMaio testified that the difficulty was not created by the Applicant.
11. The Board found that Mr. DeMaio testified that the use is not detrimental to the public welfare.
12. The Board found that Mr. DeMaio testified that the rear yard is adjacent to the common area in the development.
13. The Board found that Mr. DeMaio testified that the variance is the minimum variance to afford relief.
14. The Board found that no parties appeared in support of or in opposition to the Application.
15. 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 cul-de-sac and angled rear yard property line make the Property unique in shape. The variances are necessary

to enable reasonable use of the Property. The difficulty was not created by the Applicant. The structures were in their current location prior to the Applicant's purchase of the Property. The variances will not alter the essential character of the neighborhood. The structures have been in their current location for many years without complaint and the Angola by the Bay Property Owners Association does not object to the relief sought. The variances sought are the minimum variances necessary to afford relief. The variances represent the least modification 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 9, 2014