

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BRUCE CASHER

(Case No. 11423)

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 side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of five (5) feet from the ten (10) feet side yard setback requirement for a proposed dwelling, a variance of 8.2 feet from the ten (10) feet side yard setback requirement for proposed HVAC, and a variance of ten (10) feet from the twenty (20) feet rear yard setback requirement for a proposed porch with steps. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 54 (Lighthouse Road) and being southwest of Wilson Avenue, 325 feet east of Lincoln Drive and being Lot 28 Block 3 within Cape Windsor Subdivision. (911 Address: 38792 Wilson Avenue, Selbyville, Delaware); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-134.00. 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. Bruce Casher and JoAnn Greene were sworn in to testify on behalf of the Application and Jim Fuqua, Esquire, appeared on behalf of the Applicant.
3. The Board found that Mr. Fuqua submitted exhibits to the Board to review.
4. The Board found that Mr. Fuqua stated that the Property is located in the Cape Windsor development and is owned by Bruce Casher and JoAnn Greene.
5. The Board found that Mr. Fuqua stated that the lot measures 50 feet wide by 84.2 feet deep.
6. The Board found that Mr. Fuqua stated that the Property borders on a lagoon in the rear yard.
7. The Board found that Mr. Fuqua stated that Cape Windsor was originally developed as a manufactured home community making for unique setback requirements.
8. The Board found that Mr. Fuqua stated that the character of the neighborhood is to replace the old manufactured homes with larger, modern dwellings.
9. The Board found that Mr. Fuqua stated that the Applicants intend to place a larger, modern dwelling on the Property and that the existing dwelling will be demolished.
10. The Board found that Mr. Fuqua stated that the existing dwelling and structures are closer to the property lines than the proposed dwelling and structures.
11. The Board found that Mr. Fuqua stated that the variance request is similar to the variance requests approved by the Board for a neighbor and that the proposed setbacks are consistent with the setbacks on neighboring properties.
12. The Board found that Mr. Fuqua stated that the proposed dwelling is less intrusive into the setback areas than the existing dwelling and structures.
13. The Board found that Mr. Fuqua stated that there have been numerous variances granted in the neighborhood.
14. The Board found that Mr. Fuqua stated that the variances enable reasonable use of the Property.

15. The Board found that Mr. Fuqua stated that the proposed location of the dwelling will leave adequate space to park and to gain access to the boat dock at the rear of the Property.
16. The Board found that Mr. Fuqua stated that the difficulty has not been created by the Applicants.
17. The Board found that Mr. Fuqua stated that the proposed dwelling will not alter the character of the neighborhood. Rather, the proposed dwelling is in character of the neighborhood and will be an improvement.
18. The Board found that Mr. Fuqua stated that the variances are the minimum variances to afford relief.
19. The Board found that Mr. Casher and Ms. Greene, under oath, affirmed the statements made by Mr. Fuqua.
20. The Board found that Kerry Wertz was sworn in and testified in support of the Application.
21. The Board found that Mr. Wertz testified that he lives on Wilson Avenue and that Wilson Avenue is only twenty (20) feet wide.
22. The Board found that Mr. Wertz testified that the proposed location of the dwelling will allow for off street parking which is essential.
23. The Board found that one (1) party appeared in support of the Application.
24. The Board found that no parties appeared in opposition to the Application.
25. 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 size of the Property makes it unique and does not offer much space to build a dwelling. The adjacent street is also very narrow which limits on-street parking and makes the need for off-street parking vital. The variances will allow the dwelling to be placed in a location that will allow for more parking on the Property. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The variances will not alter the essential character of the neighborhood. Evidence was shown that other neighboring properties are developed in a similar fashion. The character of Cape Windsor has changed from a manufactured home community to a community with stick-built homes. 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