

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: EILEEN M. MAJOWSKI

(Case No. 11428)

A hearing was held after due notice on August 4, 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 front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling and a variance of 10.1 feet from the thirty (30) feet front yard setback requirement for an existing deck. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located southeast of Texas Avenue, 300 feet southwest of Bay Shore Drive approximately 0.5 mile northwest of Route 16 at Broadkill Beach and being Lots 29 & 31 within North Shores (911 Address: 109 Texas Avenue, Milton, Delaware); said property being identified as Sussex County Tax Map Parcel Number 2-35-3.16-5.00. 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. Susan Kazala was sworn in to testify on behalf of the Application and Chad Meredith, Esquire, appeared on behalf of the Applicants.
3. The Board found that Mr. Meredith submitted exhibits to the Board to review.
4. The Board found that Mr. Meredith stated that the Property was created in the 1960s and that the dwelling was constructed before the enactment of the Sussex County Zoning Code in 1969.
5. The Board found that Mr. Meredith stated that the Property is unique due to the fact that the dwelling was constructed prior to the enactment of the Sussex County Zoning Code.
6. The Board found that Mr. Meredith stated that the dwelling was constructed in conformity with the restrictive covenants set forth in the deed to the Property.
7. The Board found that Mr. Meredith stated that Texas Avenue is a narrow gravel road.
8. The Board found that Mr. Meredith stated that it would be a great cost to the Applicant to move the dwelling and porch into compliance.
9. The Board found that Mr. Meredith stated that the Property is largely wooded and difficult to see from the road.
10. The Board found that Mr. Meredith stated that the variances will enable reasonable use of the Property.
11. The Board found that Mr. Meredith stated that the difficulty was not created by the Applicant.
12. The Board found that Mr. Meredith stated that the dwelling was constructed by a prior owner and that the deck was built in the late 1970s to early 1980s.
13. The Board found that Mr. Meredith stated that the variances do not alter the character of the neighborhood.
14. The Board found that Mr. Meredith stated that other homes in the neighborhood are similarly situated.
15. The Board found that Mr. Meredith stated that there are only two (2) other dwellings on Texas Avenue.
16. The Board found that Mr. Meredith stated that the use is not detrimental to the public welfare.

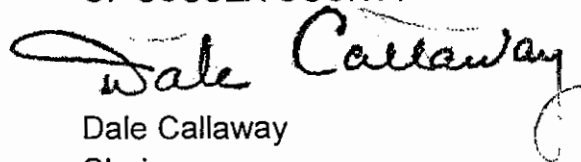
17. The Board found that Mr. Meredith stated that the variances are the least modifications of the regulation at issue and that the variances requested are the minimum variances to afford relief.
18. The Board found that Ms. Kazala confirmed, under oath, the statements of Mr. Meredith as being true and correct.
19. The Board found that Ms. Kazala testified that she is a realtor and is the listing agent for the Property.
20. The Board found that Ms. Kazala testified that she is familiar with the Property and that there is no negative affect to the surrounding property values.
21. The Board found that Jamie O'Sullivan testified in opposition to the Application but she did not object to the variance for the dwelling.
22. The Board found that no persons appeared in support of the Application.
23. The Board found that one (1) person appeared 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 existence of the non-conforming dwelling makes the Property unique. The dwelling and deck would have to be moved at great expense in order to bring the structures into compliance with the Sussex County Zoning Code. The variances are necessary to enable reasonable use of the Property. The dwelling was created prior to the enactment of the Sussex County Zoning Code. The difficulty was not created by the Applicant. The variances will not alter the essential character of the neighborhood. The dwelling and deck have been on the Property for many years and are part of the character of the neighborhood. 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 23, 2014