

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JONATHAN G. POOLE and MARY G. POOLE

(Case No. 11429)

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 for a through lot.

Findings of Fact

The Board found that the Applicants were seeking a variance of 10.4 feet from the forty (40) feet front yard setback requirement for a through lot for an existing deck and a variance of 26.4 feet from the forty (40) feet front yard setback requirement for a through lot for an existing shed. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located southeast of Road 285 (Beaver Dam Road) and northwest of Ridge Court and being Lot 105 within Oak Crest Farms Subdivision (911 Address: 38055 Ridge Court, Lewes, Delaware); said property being identified as Sussex County Tax Map Parcel Number 2-34-6.00-549.00. 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. Kathy Engel 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 is located in the Oak Crest Farms subdivision and fronts on Ridge Court with Beaver Dam Road to the rear.
5. The Board found that Mr. Meredith stated that the Applicants purchased the Property in May 2014.
6. The Board found that Mr. Meredith stated that the dwelling was built on the Property in 2003 by a prior owner.
7. The Board found that Mr. Meredith stated that there are ten (10) dwellings on Ridge Court that are also adjacent to Beaver Dam Road.
8. The Board found that Mr. Meredith stated that the shed and deck are located in the rear yard of the Property.
9. The Board found that Mr. Meredith stated that there is no direct access to Beaver Dam Road from these lots and that there is a buffer of trees along Beaver Dam Road.
10. The Board found that Mr. Meredith stated that there are four (4) other dwellings in the neighborhood with sheds in the rear yard.
11. The Board found that Mr. Meredith stated that the Property is unique because it is a through lot.
12. The Board found that Mr. Meredith stated that to move the structures into compliance would be costly and that the variances will enable reasonable use of the Property.
13. The Board found that Mr. Meredith stated that the shed would have to be removed from the Property in order to comply with the Sussex County Zoning Code.
14. The Board found that Mr. Meredith stated that the difficulty was not created by the Applicants and that the shed was on the Property when the Applicants purchased the Property.

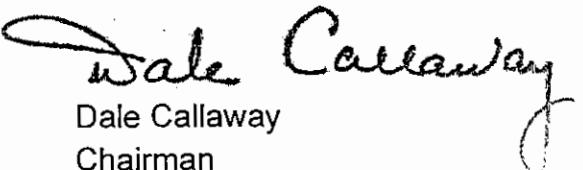
15. The Board found that Mr. Meredith stated that the survey completed for Applicants' purchase of the Property showed the encroachments.
16. The Board found that Mr. Meredith stated that the variances do not alter the character of the neighborhood.
17. The Board found that Mr. Meredith stated that the uses are not detrimental to the public welfare.
18. The Board found that Mr. Meredith stated that the variances are the minimum variances to afford relief.
19. The Board found that Mr. Meredith stated that all sheds in the community are in the rear yard.
20. The Board found that Mr. Meredith stated that moving sheds to the Ridge Court side of the Property would adversely affect the character of the neighborhood.
21. The Board found that Ms. Engle testified that she is the Real Estate Broker and is familiar with the area.
22. The Board found that Ms. Engle testified that the requested variances will not have an adverse effect to the property values.
23. The Board found that Ms. Engle testified that she confirms the statements made by Mr. Meredith as true and correct.
24. The Board found that two (2) parties appeared in support of the Application.
25. The Board found that no parties appeared in opposition to the Application.
26. 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 because it is a through lot with no direct access to Beaver Dam Road due to the location of a forested buffer. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. The variances are necessary to enable reasonable use of the Property. The shed and deck are both reasonable in size and placement. The difficulty was not created by the Applicants. The structures were placed on the Property by a prior owner and a certificate of compliance was previously issued. The structures have been on the Property for over ten (10) years and do not alter the essential character of the neighborhood. Other homes on the same street have similar structures in their rear yards. The variances sought are the minimum variances necessary to afford relief.

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