

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MARYANNE GREEN and JAMES GREEN

(Case No. 11431)

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 and side yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 5.1 feet from the thirty (30) feet front yard setback requirement for an existing dwelling and a variance of 3.2 feet from the ten (10) feet side yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located northeast of Piney Point Road Ext., 0.3 mile west of Road 357 (Cedar Neck Road) and being Lot 15 within Piney Point Subdivision (911 Address: 38226 Piney Point Road, Ocean View, Delaware); said property being identified as Sussex County Tax Map Parcel Number 1-34-9.00-218.00. 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. James Greene sworn in to testify on behalf of the Application.
3. The Board found that Mr. Green testified that the dwelling was built in 1968 and is a pre-existing, non-conforming use.
4. The Board found that Mr. Green testified that he is the third owner of the Property.
5. The Board found that Mr. Green testified that the foundation is not square with the lot.
6. The Board found that Mr. Green testified that the Property is in a flood zone and suffered substantial flood damage from Hurricane Sandy.
7. The Board found that Mr. Green testified that he plans to raise the dwelling to meet the flood zone requirements and to elevate the dwelling out of the flood plain.
8. The Board found that Mr. Green testified that Hurricane Sandy caused a great deal of damage to the house and that raising the house will better protect the dwelling from a future storm.
9. The Board found that Mr. Green testified that the non-conformity of the dwelling makes the Property unique.
10. The Board found that Mr. Green testified that the variances are necessary to enable reasonable use of the Property.
11. The Board found that Mr. Green testified that the variances will not alter the character of the neighborhood.
12. The Board found that Mr. Green testified that there are other homes in the neighborhood which pre-date the Sussex County Zoning Code and are similar to the Applicants' dwelling.
13. The Board found that Mr. Green testified that the use will not be detrimental to the public welfare.
14. The Board found that Mr. Green testified that the variances requested are the minimum variances to afford relief and that the variances requested are the least modifications of the regulations at issue.
15. The Board found that Mr. Green testified that he owns the adjacent Lot 14.

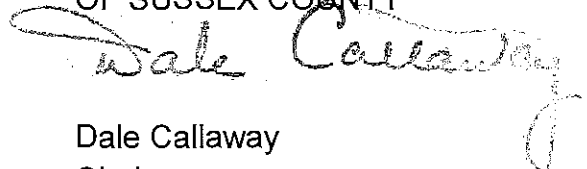
16. The Board found that Sussex County Planning & Zoning Director stated that a side yard variance was not needed because Lots 14 and 15 had previously been combined into one (1) lot.
17. The Board found that one (1) party appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. 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 front yard variance but failed to meet the standards for granting a side yard variance. The flooding of the Property makes the situation unique. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The dwelling was built prior to the creation of the Sussex County Zoning Code. The front yard variance is necessary to enable reasonable use of the Property. Elevating the dwelling should help protect the dwelling from flood damage from future storms. The difficulty was not created by the Applicants. The front yard variance will not alter the essential character of the neighborhood. Other homes in the neighborhood have been elevated to protect against flood damage. The front yard variance sought is the minimum variance necessary to afford relief. The front yard variance is not detrimental to the public welfare.
20. The side yard variance is not needed because Lots 14 and 15 have previously been combined by the Applicants into one lot. The dwelling complies with the side yard setback requirements.

The Board approved the variance application for a front yard variance finding that it met the standards for granting a variance but denied the application for a side yard variance finding that it did not meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the Application for a front yard variance was approved and the Application for a side yard variance was denied. The Board Members voting to approve the Application for a front yard variance and to deny the Application for a side yard variance were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion.

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.