

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GEORGE HACKMAN, JR., and PENELOPE HACKMAN

(Case No. 11433)

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 a variance from the rear yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 3.1 feet from the ten (10) feet rear yard setback requirement for a sunroom. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Route 54 (Lighthouse Road) and being northwest of Bayview Circle West, 600 feet northwest of Bayville Shore Drive, being Lot 201 within Bayview Landing Subdivision (911 Address: 38018 Bayview Circle West, Selbyville, Delaware); said property being identified as Sussex County Tax Map Parcel Number 5-33-13.00-221.00. 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. George Hackman and Penelope Hackman were sworn in to testify on behalf of the Application.
3. The Board found that Mr. Hackman submitted exhibits to the Board to review.
4. The Board found that Mr. Hackman testified that, in 2011, the Board granted a variance for the construction of a sunroom on a portion of an existing deck and that the Applicants constructed the sunroom in compliance with that variance approval.
5. The Board found that Mr. Hackman testified that the Applicants wish to enclose the remaining portion of the deck.
6. The Board found that Mr. Hackman testified that the existing handicap ramp will not be changed.
7. The Board found that Ms. Hackman testified that the Property is unique due its unusual shape and severe slope in the rear yard leading to a ditch.
8. The Board found that Ms. Hackman testified that the rear yard is basically unusable and that the Applicants are unable to build a shed on the Property for storage even though they have explored all avenues for placement of a shed.
9. The Board found that Ms. Hackman testified that the deck furniture is currently stored in the existing garage during the winter.
10. The Board found that Ms. Hackman testified that the Applicants intend to leave the deck furniture in the sunroom all year.
11. The Board found that Ms. Hackman testified that the proposed sunroom will allow them to use the existing garage for both vehicles all year.
12. The Board found that Ms. Hackman testified that the proposed sunroom will enable reasonable use of the Property.
13. The Board found that Ms. Hackman testified that the bugs do not allow the Applicants to use the deck and did not realize that in 2011 or they would have enclosed the entire deck then.
14. The Board found that Mr. Hackman testified that the Applicants still need to obtain the Homeowners Association's approval.
15. The Board found that Mr. Hackman testified that the community has high standards and the siding and roof of the sunroom must match the existing dwelling.

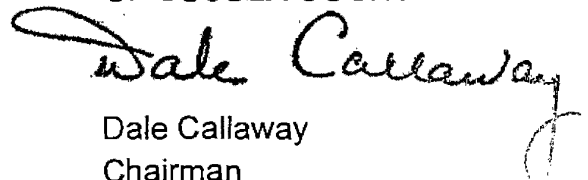
16. The Board found that Ms. Hackman testified that the sunroom is a three-season room with screen and glass windows and that there will be no heating or air conditioning in the sunroom.
17. The Board found that Mr. Hackman testified that the proposed sunroom does not further encroach into the setback than the existing sunroom.
18. The Board found that Mr. Hackman testified that the proposed sunroom and the existing sunroom will be separated by a sliding door.
19. The Board found that no parties appeared in support of or in opposition to the Application.
20. 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 due to the severe slope of the rear yard and the Property has a unique shape. The variance is necessary to enable reasonable use of the Property. Due to the severe slope of the rear yard, the Applicants are unable to place a shed in the rear yard, which limits their storage space. The variance will enable the Applicants to place a sunroom on the Property and to use that space for storage. The difficulty was not created by the Applicants. The variance will not alter the essential character of the neighborhood. The Applicants must obtain approval from the Homeowners Association's Architectural Review Committee which requires that the siding and roofing of the proposed sunroom match the existing dwelling. No evidence was provided which demonstrates that the sunroom would alter the essential character of the neighborhood. The variance sought is the minimum variance necessary to afford relief. The proposed sunroom will not encroach further into the rear yard setback than the existing sunroom.

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