

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MARK D. FISHER

(Case No. 11434)

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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of ten (10) feet from the ten (10) feet side yard setback requirement for a proposed deck and HVAC unit, a variance of six (6) feet from the ten (10) feet side yard setback requirement for a proposed dwelling, and a variance of two (2) feet from the ten (10) feet side yard setback requirement for a proposed second floor deck. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located north of Route 54 (Lighthouse Road) and being east of Canvasback Road, 2,000 feet north of Swann Drive and being Lot 48 Block D within Swann Keys Subdivision (911 Address: 37066 Canvasback Road, Selbyville, Delaware); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-375.00. 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. Mark Fisher and Jennifer Fisher were sworn in to testify on behalf of the Application.
3. The Board found that Mr. Fisher testified that the existing dwelling burned down in September 2013.
4. The Board found that Mr. Fisher testified that the Property is located within the Swann Keys development.
5. The Board found that Mr. Fisher testified that the lot is very narrow and is only forty (40) feet wide.
6. The Board found that Mr. Fisher testified that the previous dwelling was only four (4) feet from the rear yard property line.
7. The Board found that Mr. Fisher testified that the proposed dwelling is smaller than the previous dwelling.
8. The Board found that Mr. Fisher testified that the proposed dwelling will not disturb the existing concrete pads on the Property.
9. The Board found that Mr. Fisher testified that the neighbor to the south has placed its dwelling on the property line bordering the Property and that the neighbor to the north has placed its dwelling fourteen (14) feet from the property line bordering the Property. For this reason, the proposed location of the dwelling will give adequate spacing between the dwellings on those three lots.
10. The Board found that Mr. Fisher testified that the neighboring dwellings have been in their current locations for many years and that most of the dwellings in the neighborhood have been placed on one side of the lot.
11. The Board found that Mr. Fisher testified that the variances will not alter the character of the neighborhood.
12. The Board found that Mr. Fisher testified that the HVAC unit will be placed on the north side of the Property which is consistent with how those units are placed on other lots in the neighborhood.
13. The Board found that Mr. Fisher testified that the variances will enable reasonable use of the Property.
14. The Board found that Mr. Fisher testified that the variances will enable him to access the canal with his boat.

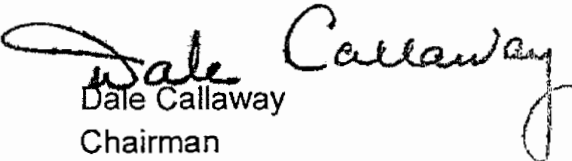
15. The Board found that Mr. Fisher testified that the difficulty was not created by the Applicants.
16. The Board found that Mr. Fisher testified that the use is not detrimental to the public welfare.
17. The Board found that Mr. Fisher testified that the variances requested are the minimum variances necessary to afford relief.
18. The Board found that Mr. Fisher testified that the proposed dwelling will meet the flood zone requirements.
19. The Board found that Mr. Fisher testified that the second floor decks provide access to the dwelling.
20. The Board found that Mr. Fisher testified that the first floor is a garage and the living space is on the second floor.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. 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 in size as it is only forty (40) feet wide. Due to the small width of the lot, the Applicant is severely limited in the location of a dwelling. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The prior dwelling was destroyed by a fire and the Applicant needs to construct a new dwelling on the Property. The Applicant is replacing the dwelling with a smaller dwelling that will be elevated to avoid issues with flooding. The stairs and decking are necessary to provide access to the elevated home. The variances will not alter the essential character of the neighborhood. Other dwellings and HVAC units in the neighborhood are placed in a similar fashion on the properties. 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