

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DR. TRISTAN KRUGER

(Case No. 11435)

A hearing was held after due notice on August 18, 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 front yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of five (5) feet from the thirty (30) feet front yard setback requirement for a proposed second story deck. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Route One (Coastal Highway) west of Dune Road, 60 feet south of Bayberry Road and being Lot 8 Block F within Middlesex Beach (911 Address: 41 Dune Road, Middlesex Beach, Delaware); said property being identified as Sussex County Tax Map Parcel Number 1-34-17.16-62.00. After a hearing, the Board made the following findings of fact:

1. Dr. Tristan Kruger was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Kruger testified that he inherited the Property from his father four (4) years ago and that his father purchased the Property in 1965.
3. The Board found that Mr. Kruger testified that the dwelling is in poor condition and needs repair.
4. The Board found that Mr. Kruger testified that other homes in the neighborhood are much larger than this dwelling.
5. The Board found that Mr. Kruger testified that he intends to add a second story and garage to the dwelling.
6. The Board found that Mr. Kruger testified that the original pilings and front façade of the building will remain.
7. The Board found that Mr. Kruger testified that the community has a twenty-five (25) feet setback requirement and many of the homes in Middlesex Beach were built to that setback line, including the dwelling on the Property.
8. The Board found that Mr. Kruger testified that the Property cannot be built in strict conformity without tearing down the entire structure.
9. The Board found that Mr. Kruger testified that Property is unique because the dwelling was constructed to the community's 1962 setback line.
10. The Board found that Mr. Kruger testified that the variance is the minimum variance necessary to afford relief.
11. The Board found that Mr. Kruger testified that the variance will enable reasonable use of the Property.
12. The Board found that Mr. Kruger testified that the difficulty was not created by the Applicant.
13. The Board found that Mr. Kruger testified that the dwelling was built prior to the enactment of the Sussex County Zoning Code which created the front yard setback.
14. The Board found that Mr. Kruger testified that the variance will not alter the character of the neighborhood.
15. The Board found that Mr. Kruger testified that the Middlesex Beach Homeowners Association approves of the Application.
16. The Board found that Mr. Kruger testified that the use does not impair the uses of the adjacent and neighboring properties.
17. The Board found that Mr. Kruger testified that the variance will not be detrimental to the public welfare.
18. The Board found that Mr. Kruger testified that the proposed garage will be within the existing footprint of an existing deck.

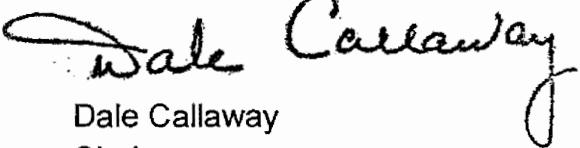
19. The Board found that Mr. Kruger testified that the structures will not encroach any further into the front yard setback area than the existing structure.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. Based on the findings above and the testimony 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 only sixty (60) feet wide. The circumstances are also unique because the existing dwelling was constructed prior to the enactment of the Sussex County Zoning Code and needs to be repaired. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The existing house was built by a prior owner to a twenty-five (25) feet front yard setback line rather than a thirty (30) feet front yard setback line which was later implemented by Sussex County. The variance will not alter the essential character of the neighborhood. Other homes in the neighborhood are a similar distance from the front yard property line and the Middlesex Beach Homeowners Association supports the Application. The variance sought is the minimum variance necessary to afford relief. The variance represents the least modification of the regulation 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