

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ERNIE TYLER and DENISE TYLER

(Case No. 11439)

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 variances from the front and side yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of five (5) feet from the thirty (30) feet front yard setback requirement for a proposed dwelling and a variance of five (5) feet from the ten (10) feet side yard setback requirement for a proposed HVAC unit. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 54 (Lighthouse Road) and being southwest of Maple Lane, 1,500 feet south of Cedar Road and being Lot 34 within Keen-wik Subdivision (911 Address: 38400 Maple Lane, Selbyville, Delaware); said property being identified as Sussex County Tax Map Parcel Number 5-33-19.16-44.00. After a hearing, the Board made the following findings of fact:

1. Ernie Tyler was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Tyler testified that he purchased the Property in 1967 and that the existing dwelling was built in 1976.
3. The Board found that Mr. Tyler testified that the existing dwelling is in poor condition and needs to be replaced.
4. The Board found that Mr. Tyler testified that the Homeowners Association required a twenty (20) feet rear yard setback, a twenty-five (25) feet front yard setback and a five (5) feet side yard setback requirement.
5. The Board found that Mr. Tyler testified that the Applicants have changed their original house plans to better accommodate all the required setback requirements, including the Homeowners Association setbacks.
6. The Board found that Mr. Tyler testified that the proposed dwelling has been reduced in size and cannot be reduced any further.
7. The Board found that Mr. Tyler testified that the proposed dwelling is the best fit for the lot.
8. The Board found that Mr. Tyler testified that the side yard variance is for the HVAC unit.
9. The Board found that Mr. Tyler testified that the Property is unique because it is surrounded by water on two (2) sides.
10. The Board found that Mr. Tyler testified that the difficulty has not been created by the Applicants.
11. The Board found that Mr. Tyler testified that there have been similar variances granted in the development.
12. The Board found that Mr. Tyler testified that the variances are necessary to enable reasonable use of the Property.
13. The Board found that Mr. Tyler testified that the variances will not be detrimental to the public welfare.
14. The Board found that Mr. Tyler testified that the variances will not alter the character of the neighborhood.
15. The Board found that Mr. Tyler testified that the variances will not impair the uses of adjacent and neighboring properties.


16. The Board found that Mr. Tyler testified that the variances are the least modifications of the regulations at issue and are the minimum variances to afford relief.
17. The Board found that Mr. Tyler testified that he has tried several different ways to place the dwelling on the Property but he cannot place the dwelling on the Property without a variance.
18. The Board found that no parties appeared in support of or in opposition to the Application.
19. The Board found that the Office of Planning & Zoning received one (1) letter of support regarding 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 in shape and surrounded by water on two (2) sides. The front property line is particularly unusual in shape. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants have exhausted all possibilities of placing the proposed dwelling on the Property without a variance. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The Homeowners Association restrictions limit the building envelope. The variances will not be detrimental to the public welfare. The variances will not alter the essential character of the neighborhood. The proposed dwelling is consistent with other homes in the neighborhood. 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