

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ROBERT W. HALL AND JANET HALL, TRUSTEE

(Case No. 11443)

A hearing was held after due notice on September 8, 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 and rear yard setback requirements and a variance from the minimum square footage for a parcel requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 13,000 square foot from the 20,000 square feet lot size requirement for Lot A, a variance of 13,000 square-feet from the 20,000 square-feet lot size requirement for Lot B, a variance of 12,000 square-foot from the 20,000 square-feet lot size requirement for Lot C, a variance of 0.2 feet from the twenty (20) feet rear yard setback requirement for an existing dwelling on Lot C, and a variance of 12,000 square-feet from the 20,000 square-feet lot size requirement for Lot D. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located southeast of Business Route 9 (Savannah Road) and being northwest of 2nd Street and southeast of 1st Street and northeast of Crestview Avenue; said property being identified as Sussex County Tax Map Parcel Number 3-35-12.06-21.00 and 23.00. After a hearing, the Board made the following findings of fact:

1. Robert Hall was sworn in to testify on behalf of the Application.
2. Tim Willard, Esquire, presented the case to the Board on behalf of the Applicants and submitted exhibits for the Board to review.
3. The Board found that Mr. Willard stated that the Applicants seek to subdivide Parcel 21 into two (2) lots (Lot A and Lot B) and to subdivide Parcel 23 into two (2) lots (Lot C and Lot D). Parcel 22, which sits between Parcels 21 and 23, had previously been subdivided in a similar fashion in 1978.
4. The Board found that Mr. Willard stated that there are no variances needed for Parcel 22.
5. The Board found that Mr. Willard stated that the variances are necessary to develop the parcels.
6. The Board found that Mr. Willard stated that developing Parcels 21 and 23 as larger lots would be inconsistent with the character of the neighborhood.
7. The Board found that Mr. Willard stated that the neighborhood consists of small lots.
8. The Board found that Mr. Willard stated that the Applicants intend to sell the properties once subdivided and that the buyers intend to construct stick-built dwellings on the lots.
9. The Board found that Mr. Willard stated that the Applicants propose to divide Parcel 21 into two lots consisting of 7,000 square feet each.
10. The Board found that Mr. Willard stated that an existing shed on the proposed Lot A will be removed.
11. The Board found that Mr. Willard stated that the lots have sewer available and that, since sewer is available to the lots, the minimum lot size requirement is only 20,000 square feet so the variance needed from the minimum lot size requirement for Lots A and B is only 13,000 square feet per lot.
12. The Board found that Mr. Willard stated that the existing dwelling and shed on Parcel 22.1 will also be removed.

13. The Board found that Mr. Willard stated that Parcel 23 is larger than Parcel 21 so the variances needed from the minimum square footage requirement for Lots C and D are only 12,000 square feet per lot.
14. The Board found that Mr. Willard stated that the existing porch located on Lot C is 19.8 feet from the proposed rear yard property line so a 0.2 foot variance is needed.
15. The Board found that Mr. Willard stated that the variances will not be detrimental to the neighborhood.
16. The Board found that Mr. Willard stated that other nearby properties have previously been subdivided in a similar fashion and the Board approved variances necessary for those subdivisions in 2004 and 2009.
17. The Board found that Mr. Willard stated that houses in the neighborhood are modest homes and that the buyers plan to construct new affordable dwellings on the properties.
18. The Board found that Mr. Willard stated that the properties are unique due to the size of the lots and the lots are narrow.
19. The Board found that Mr. Willard stated that developing homes on the full-sized lots would be inconsistent with the neighborhood.
20. The Board found that Mr. Willard stated that the development will be an improvement to the neighborhood.
21. The Board found that Mr. Willard stated that the variances requested are the minimum variances necessary to afford relief.
22. The Board found that Mr. Hall, under oath, confirmed the statements made by Mr. Willard as being true and correct.
23. The Board found that Doug McLaughlin was sworn in and testified that he owns a nearby property.
24. The Board found that Mr. McLaughlin testified that he has no objection to the subdivision of the lots or to the building of single-family homes on the lots and that he has no objection to the requested variances for the existing structures that will remain.
25. The Board found that no parties appeared in support of or in opposition to the Application.
26. 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 properties are unique because they are narrow and have road frontage on either end. The neighborhood also has many similar small lots with relatively modest houses making the community unique to the current statutory requirements. Developing the lots in the current dimension by building new homes on the existing larger lots, would not be consistent with the neighboring properties. The variances are necessary to enable reasonable use of the Property. The variances will allow for the subdivision and development of the lots in a similar fashion to other previously subdivided lots in the neighborhood. The exceptional practical difficulty was not created by the Applicants. The size and shape of the parcels, nor the character of the neighborhood were created by the Applicants. In fact, the proposed subdivisions make the lots more consistent with other lots in the neighborhood. As such, the variances will not alter the essential character of the neighborhood. Because the homes in the neighborhood are relatively older and modest, the subdivision and development of these lots will be an improvement to the surroundings. Likewise, because of the improvements and existing infrastructure, the variances will not permanently or substantially impair the uses of adjacent properties and will not be detrimental to the public welfare. 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 October 21, 2014.