

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BRUCE LANE AND LESLIE LANE

(Case No. 11446)

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 setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 0.1 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 0.3 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 0.4 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of seven (7) feet from the ten (10) feet side yard setback requirement for existing HVAC equipment, and a variance of four (4) feet from the ten (10) feet side yard setback requirement for an existing set of steps. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located east of Ocean Drive and 100 feet south of Far View Road and being Lot 5 within North Shore Subdivision and north of Town boundary of Henlopen Acres; said property being identified as Sussex County Tax Map Parcel Number 3-34-8.17-6.00. After a hearing, the Board made the following findings of fact:

1. Randy Burton was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Burton testified that he is a local builder and that he started construction of the dwelling three (3) years ago.
3. The Board found that Mr. Burton testified that in the beginning of construction there were engineering issues.
4. The Board found that Mr. Burton testified that the dwelling required 145 pilings, which were each 75 feet long and were driven into the ground for the foundation.
5. The Board found that Mr. Burton testified that the majority of a previous dwelling was demolished prior to construction.
6. The Board found that Mr. Burton testified that a previous request for a variance for a pool was denied and that the pool has been brought into compliance with the zoning requirements.
7. The Board found that Mr. Burton testified that during this process a calculation error was made and created the encroachments.
8. The Board found that Mr. Burton testified that the construction project was extremely complicated.
9. The Board found that Mr. Burton testified that the existing dwelling is over 9,000 square-feet in size.
10. The Board found that Mr. Burton testified that the Property has a unique condition.
11. The Board found that Mr. Burton testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code.
12. The Board found that Mr. Burton testified that the variances are necessary to enable reasonable use of the Property.
13. The Board found that Mr. Burton testified that the difficulty was not created by the Applicants and that his company created the hardship.
14. The Board found that Mr. Burton testified that the variances will not affect the essential character of the neighborhood.
15. The Board found that Mr. Burton testified that the use is not detrimental to the public welfare.
16. The Board found that Mr. Burton testified that the neighbors support the Application.

17. The Board found that Mr. Burton testified that the use will not impair the uses of the neighboring and adjacent properties.
18. The Board found that Mr. Burton testified that the variances are the minimum variances necessary to afford relief.
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. The variances are necessary to enable reasonable use of the Property. The exceptional practical difficulty was not created by the Applicants. The evidence is clear that the construction project was difficult and that the difficulty was caused by an error by the builder and not discovered until after the house was constructed. The variances will not alter the essential character of the neighborhood. The evidence in the record indicates that neighbors support the Application. The variances sought are the minimum variances necessary to afford relief. The variances requested represent the least modifications possible of the regulations 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 October 21, 2014