

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BIRDIE TUCKER

(Case No. 11449)

A hearing was held after due notice on September 22, 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5.5 feet from the ten (10) feet side yard setback requirement for a proposed manufactured home. This application pertains to certain real property located west of Road 258 (Hudson Road) and being east of E Lake Drive 150 feet south of Dan's Lane and being Lot 3 within Lazy Lake Subdivision. (911 Address: 119 E Lake Drive, Milton, DE); said property being identified as Sussex County Tax Map Parcel Number 2-35-26.00-81.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters regarding to the Application.
2. Birdie Tucker and Steve Tucker were sworn in to testify about the Application.
3. The Board found that Mr. Tucker testified that a Delaware Department of Natural Resource and Environmental Control ("DNREC") site plan shows the Property as being larger than it actually is and that Birdie Tucker purchased the manufactured home to place on the Property based on that information.
4. The Board found that Mr. Tucker testified that Ms. Tucker originally believed that the lot was 100 feet wide.
5. The Board found that Ms. Tucker testified that the Property is only 75 feet wide.
6. The Board found that Ms. Tucker testified that she would not have purchased that unit had she realized the error on the DNREC site plan.
7. The Board found that Mr. Tucker testified that the placement of the manufactured home is consistent with the neighborhood.
8. The Board found that Mr. Tucker testified that other mobile homes in the neighborhood face the road and that turning the unit would be out of character with the neighborhood.
9. The Board found that Ms. Tucker testified that the existing septic system is in the rear yard and if she turned the house, it would be on top of the septic system.
10. The Board found that no parties appeared in support of or in opposition to the Application.
11. Based on the findings above and the testimony and exhibits presented at the public hearing and the public record, the Board determined that the application met the standards for granting a variance. The error on the DNREC site plan created a unique situation. The Applicant reasonably relied on the site plan in selecting a home to place on her lot only to later learn that the lot was narrower than she was led to believe. The variance is necessary to enable reasonable use of the Property. The Applicant would not be able to place the home on the Property in a manner consistent with the neighborhood without the variance. The location of the septic system also prohibits the Applicant from turning the home to fit on the lot. The exceptional practical difficulty was not created by the Applicant. The variance will not alter the essential character of the neighborhood. The variance will enable the home to be placed in a fashion similar to other homes in the neighborhood. The variance sought is the minimum variance necessary to

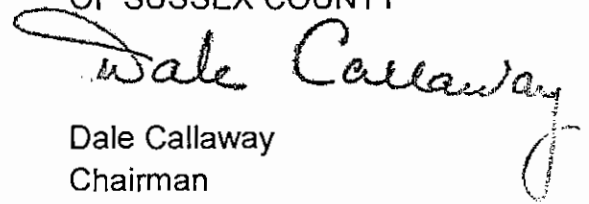
afford relief. The variance represents the least modification of the regulation at issue.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance 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 November 18, 2014