

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: KATHLEEN STONE / JOHN MEYER**

**(Case No. 11452)**

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 fence height requirement in the front yard.

Findings of Fact

The Board found that the Applicants were seeking a variance of forty (40) feet from the forty (40) foot setback requirement for a seven (7) feet solid fence (exceeding 3.5 feet in height allowed) thereby requesting a variance of 3.5 feet from the 3.5 feet maximum height requirement for a fence. This application pertains to certain real property located northeast of Route One (Coastal Highway) 65 northwest of Carolina Street and being Lot 5 and part of Lot 6 within Killen's Addition Subdivision (911 Address: 38439 Carolina Street, Rehoboth Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-167.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received one (1) letter in opposition to the Application.
2. Kathleen Stone was sworn in to testify about the Application.
3. The Board found that Ms. Stone submitted exhibits to the Board regarding the Application.
4. The Board found that Ms. Stone testified that the Applicants are requesting a variance to allow for a seven (7) feet tall privacy fence.
5. The Board found that Ms. Stone testified that the Property is unique because it is adjacent to Route 1.
6. The Board found that Ms. Stone testified that she purchased the Property in June 2014.
7. The Board found that Ms. Stone testified that the Applicants have been renovating the existing dwelling and the Applicants are now beginning clean up to the Property.
8. The Board found that Ms. Stone testified that the proposed fence will be the same height and style as the neighbor's existing fence.
9. The Board found that Ms. Stone testified that there is no possibility the Property can be developed in strict conformity with the Sussex County Zoning Code.
10. The Board found that Ms. Stone testified that the need for the variance was not created by the Applicants.
11. The Board found that Ms. Stone testified that there are other fences in the neighborhood and that the proposed fence will not alter the essential character of the neighborhood.
12. The Board found that Ms. Stone testified that the height and style of the fence will be consistent with other fences in the neighborhood.
13. The Board found that Ms. Stone testified that the fence will block trespassers from using their property as a pathway to Route One.
14. The Board found that no parties appeared in support of or in opposition to the Application.

15. 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 Property is unique and shape and in its proximity to Route 1; which is a well-traveled road. The variances are necessary to enable reasonable use of the Property. The fence will provide privacy from Route 1 and will restrict the access of trespassers who have used the Property as a shortcut to access Route 1. The hardship and exceptional practical difficulty were not created by the Applicants who only purchased the Property a few months ago. The Applicants did not create the lot next to Route 1 and the use by trespassers is not a situation created by the Applicants. The variances will not alter the essential character of the neighborhood as the proposed fence is similar in size and style to other fences on nearby properties. The variances sought are the minimum variances necessary to afford relief.

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