

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ANTHONY BALSAMO

(Case No. 11453)

Hearings were held after due notice on September 22, 2014 and October 6, 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.

Findings of Fact

The Board found that the Applicant was seeking a variance of 1.5 feet from the ten (10) feet side yard setback requirement on the north side of the Property for a proposed dwelling, a variance of 6.5 feet from the fifteen (15) feet corner yard setback on the south side of the Property for a proposed dwelling, and a variance of 4.7 feet from the twenty (20) feet rear yard setback requirement for a proposed deck. This application pertains to certain real property located south of Route 54 (Lighthouse Road) and being west of Cleveland Avenue 1,050 feet south of Lincoln Drive and being Lot 26 Block 4 within Cape Windsor Subdivision (911 Address: 38852 Cleveland Avenue, Selbyville, DE); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-115.00. After a hearing, the Board made the following findings of fact:

1. The Office of Planning & Zoning received no correspondence regarding the Application.
2. Anthony Balsamo was sworn in to testify about the Application.
3. The Board found that Mr. Balsamo testified that his parents purchased the Property one (1) year ago.
4. The Board found that Mr. Balsamo testified that the existing house will be removed and replaced with a new dwelling.
5. The Board found that Mr. Balsamo testified that the Property is a corner lot which makes it unique.
6. The Board found that Mr. Balsamo testified that the Applicant seeks to maximize the amount of living space in the dwelling.
7. The Board found that Mr. Balsamo testified that the proposed dwelling will have a grand entrance between the two (2) attached garages.
8. The Board found that Mr. Balsamo testified that other homes in the neighborhood have two (2) car garages.
9. The Board found that Mr. Balsamo testified that other lot owners in the neighborhood are replacing their homes with newer construction.
10. The Board found that Planning & Zoning Director Lawrence Lank advised the Board that Cleveland Avenue makes a "T" and the corner yard setback requirement applies.
11. The Board found that Mr. Lank stated that a variance of 6.5 feet on the south side of the Property applies and that a variance of 1.5 feet applies on the north side of the Property.
12. The Board voted to leave the case open until October 6, 2014, at which time the Applicant could present additional testimony and evidence.
13. On October 6, 2014, the Board held an additional hearing about the Application at which time Mr. Balsamo was sworn in and testified.

14. The Board found that Mr. Balsamo testified that the Homeowners Association supports the Application.
15. The Board found that Mr. Balsamo testified that a neighboring property owner obtained a variance for a similar dwelling as proposed by the Applicant.
16. The Board found that Mr. Balsamo testified that the existing manufactured home will be removed and that the proposed dwelling is the best use of the Property.
17. The Board found that Mr. Balsamo testified that there are similar homes in the neighborhood.
18. The Board found that Mr. Balsamo testified that the community was previously a mobile home community but is now transitioning to a community of single family dwellings.
19. The Board found that Mr. Balsamo testified that the variances are necessary to enable reasonable use of the Property.
20. The Board found that Mr. Balsamo testified that the proposed dwelling is in character of the neighborhood.
21. The Board found that Mr. Balsamo testified that the use will not be detrimental to the public welfare.
22. The Board found that Mr. Balsamo testified that the variances are the minimum variances to afford relief.
23. The Board found that no parties appeared in support of or in opposition to the Application at the hearings held on September 22, 2014 and October 6, 2014.
24. Based on the findings above and the testimony 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 due to its small size. The Property is also unique because it is located within the Cape Windsor community which is a community developed for manufactured homes that has evolved into a community of single family dwellings. The variances are necessary to enable reasonable use of the Property. The variances will allow the Applicant to construct a reasonably sized dwelling and deck on the Property. The exceptional practical difficulty and hardship were not created by the Applicant. The size of the lot has created the difficulty and hardship. The variances will not alter the essential character of the neighborhood. Other homes in the neighborhood are of a similar size and character and the proposed dwelling will fit in with the character of the neighborhood. 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 December 2, 2014