

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GARY KEITH and MARY P. HRYBRYK-KEITH

(Case No. 11458)

A hearing was held after due notice on 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 a variance from the front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 0.4 feet from the thirty (30) feet front yard setback requirement for an existing dwelling. This application pertains to certain real property located south of Dutch Road, 120 feet southwest of Route One (Coastal Highway) and west of Dodd Avenue and being Lot F-7 within Seabreeze Development (911 Address: 302 Dutch Road, Dewey Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.13-188.00). After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no correspondence regarding the Application.
2. Nathan Allen Jarmon was sworn in to testify about the Application and Chad Meredith, Esquire, appeared on behalf of the Applicants and submitted an aerial photograph to the Board to review.
3. The Board found that Mr. Meredith stated that the Property is located in the Seabreeze subdivision which was created in 1958.
4. The Board found that Mr. Meredith stated that the dwelling was constructed in 1969 and may predate the enactment of the Sussex County Zoning Code.
5. The Board found that Mr. Meredith stated that there have been no changes to the dwelling since the 1999 survey was completed.
6. The Board found that Mr. Meredith stated that the neighbors' dwellings are similarly situated on the lots.
7. The Board found that Mr. Meredith stated that the aerial photograph shows the placement of the dwelling in relation to other homes in the neighborhood.
8. The Board found that Mr. Meredith stated that the Property has already been developed and cannot be built in strict conformity with the Sussex County Zoning Code.
9. The Board found that Mr. Meredith stated that it would be very expensive to bring the dwelling into compliance as the structure would need to be moved or a part of the structure would have to be removed.
10. The Board found that Mr. Meredith stated that the variance is necessary to enable reasonable use of the Property.
11. The Board found that Mr. Meredith stated that the exceptional practical difficulty was not created by the Applicants.
12. The Board found that Mr. Meredith stated that the variance does not alter the essential character of the neighborhood as other homes on Dutch Road are similarly situated.
13. The Board found that Mr. Meredith stated that the use is not detrimental to the public welfare.
14. The Board found that Mr. Meredith stated that the use does not impair the uses of neighboring and adjacent properties.

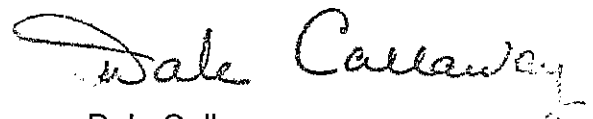
15. The Board found that Mr. Meredith stated that the variance represents the least modification of the regulation at issue.
16. The Board found that Mr. Meredith stated that the variance is the minimum variance necessary to afford relief.
17. The Board found that Mr. Jarmon testified that he is the Real Estate Broker and is familiar with the Property and the Seabreeze development and that the requested variance will not have an adverse effect to the property values.
18. The Board found that Mr. Jarmon testified that the statements made by Mr. Meredith are true and correct.
19. The Board found that three (3) parties appeared in support of the Application.
20. The Board found that no parties appeared in opposition to the Application.
21. 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. The Property was subdivided prior to the enactment of the Sussex County Zoning Code and the dwelling was constructed thereon around that time. The variance is necessary to enable reasonable use of the Property as the variance will enable the existing dwelling to remain in its current location. The hardship and exceptional practical difficulty were not created by the Applicants. The variance will not alter the essential character of the neighborhood. Other homes along Dutch Road are similarly situated on their lots and the dwelling located on the Property is in character with the neighborhood. Furthermore, a local real estate broker testified that the granting of the variance would not have an adverse effect on property values 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 December 2, 2014