

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PEGGY BROCKWAY TRUITT

(Case No. 11465)

Hearings were held after due notice on October 6, 2014, and October 20, 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 front yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 9.4 feet from the forty (40) feet front yard setback requirement for a proposed porch, a variance of 5.7 feet from the ten (10) feet side yard setback requirement for an existing dwelling, addition and steps, and a variance of 1.9 feet from the ten (10) feet side yard setback requirement for an existing shed. This application pertains to certain real property located north of Road 269 (Clay Road) 0.2 mile east of Road 276 (Shady Road) (911 Address: 34053 Clay Road, Lewes, DE); said property being identified as Sussex County Tax Map Parcel Number 3-35-12.06-63.00). 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. Thomas White was sworn in to testify about the Application.
3. The Board found that Mr. White testified that the proposed front porch will give the Applicant an easier and safer access to the dwelling.
4. The Board found that Mr. White testified that the Applicant's brother owns property to the east and conveyed a portion of that property to the Applicant to square up the Property.
5. The Board found that Mr. White testified that the lot is narrow but is deep and backs up to a swamp.
6. The Board found that Mr. White testified that there are other dwellings in the area built close to the road.
7. The Board found that Mr. White testified that the lots along Clay Road are angled due to the curvature of the road.
8. The Board found that Mr. White testified that the Property cannot be built in strict conformity with the Sussex County Zoning Code.
9. The Board found that Mr. White testified that the proposed porch is six (6) feet wide and will be more functional than the existing side entrance.
10. The Board found that Mr. White testified that the existing shed is on a permanent foundation and cannot be moved into compliance.
11. The Board found that Mr. White testified that the Property is unique because it is narrow.
12. The Board found that Mr. White testified that the exceptional practical difficulty has not been created by the Applicant as she inherited the house.
13. The Board found that Mr. White testified that the variances will enhance the neighborhood and will not alter the essential character of the neighborhood.
14. The Board voted to leave the public record open and to hold an additional hearing on this Application on October 20, 2014.
15. On October 20, 2014, the Board held an additional hearing on the Application.

16. The Board found that Mr. White submitted exhibits, including pictures of nearby properties, regarding the Application.
17. The Board found that Mr. White testified that the proposed porch will provide a safer and more functional entrance to the existing dwelling.
18. The Board found that Mr. White testified that there are similar porches in the area.
19. The Board found that Mr. White testified that the variances are necessary to enable the Applicant to enter the house safely.
20. The Board found that Mr. White testified that the variances will enable reasonable use of the Property.
21. The Board found that Mr. White testified that the dwelling was built in the 1940s and that other houses along Clay Road were built between the 1930s and 1950s.
22. The Board found that Mr. White testified that the use is not detrimental to the public welfare.
23. The Board found that Mr. White testified that the non-conforming dwelling makes the Property unique.
24. The Board found that Mr. White testified that variances requested are the minimum variances to afford relief.
25. The Board found that no parties appeared in support of or in opposition to the Application at either hearing.
26. 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 in that it is only 80 feet wide and has an angled property line. The Property is also adjacent to swamp lands in the rear yard. The dwelling was placed on the Property prior to the enactment of the Sussex County Zoning Code and, like other dwellings along Clay Road, is close to the road. The variances are necessary to enable reasonable use of the Property. The porch will allow the Applicant to have a safer entrance to the dwelling. The dwelling and shed are also reasonable and cannot be moved as both structures are on a permanent foundation. The exceptional practical difficulty and hardship were not created by the Applicant. The Property was developed by a prior owner. The variances will not alter the essential character of the neighborhood. Other homes along Clay Road are a similar distance from the road and have porches similar to the one proposed by the Applicant. The existing dwelling and shed also do not affect the character of the neighborhood as they have been in their current location for many years. 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 16, 2014