

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JEFFREY MOORE

(Case No. 11466)

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 variances from the side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of five (5) feet from the ten (10) feet side yard setback requirement for a proposed dwelling, a variance of nine (9) feet from the twenty (20) feet rear yard setback requirement for a proposed dwelling with a second floor deck, a variance of eleven (11) feet from the twenty (20) rear yard setback requirement for a proposed deck, and a variance of eight (8) feet from the ten (10) feet side yard setback requirement for a proposed HVAC platform. This application pertains to certain real property located south of Route 54 (Lighthouse Road) and being east of Wilson Avenue, 125 feet southeast of Lincoln Drive and being Lot 2 Block 3 within Cape Windsor Subdivision (911 Address: 38871 Wilson Avenue, Selbyville, DE); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.14-69.00. After a hearing, the Board made the following findings of fact:

1. The Office of Planning & Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.
2. Jeffrey Moore was sworn in to testify about the Application.
3. The Board found that Mr. Moore testified that the Property is located in Cape Windsor.
4. The Board found that Mr. Moore testified that the existing dwelling on the Property is old and needs to be replaced.
5. The Board found that Mr. Moore testified that the proposed dwelling will measure thirty (30) feet by thirty (30) feet with an attached garage.
6. The Board found that Mr. Moore testified that the proposed rear deck will have two (2) levels.
7. The Board found that Mr. Moore testified that the second level deck will be twelve (12) feet wide and the first floor level will be ten (10) feet wide.
8. The Board found that Mr. Moore testified that the Property is unique because it is only fifty (50) feet wide by eighty-five (85) feet deep.
9. The Board found that Mr. Moore testified that other lots in the neighborhood are ninety (90) feet deep.
10. The Board found that Mr. Moore testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code due to the small size of the lot.
11. The Board found that Mr. Moore testified that the variances will not have a detrimental effect on neighboring properties.
12. The Board found that Mr. Moore testified that the proposed dwelling is nearly identical to a dwelling built across the street.
13. The Board found that Mr. Moore testified that one of the neighboring properties is a vacant lot.

14. The Board found that Mr. Moore testified that the difficulty was not created by the Applicant since the lot was created so small.
15. The Board found that Mr. Moore testified that the variances will enable reasonable use of the Property.
16. The Board found that Mr. Moore testified that the variances will have no adverse effect to the neighboring or adjacent properties.
17. The Board found that Mr. Moore testified that the variances will not alter the character of the neighborhood.
18. The Board found that Mr. Moore testified that the neighbors support the Application.
19. The Board found that Mr. Moore testified that the variances are the minimum variances necessary to build a reasonable sized house on the lot.
20. The Board found that one (1) party appeared in support of the Application.
21. The Board found that no parties appeared in opposition to the Application.
22. 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 size of the Property is unique as it is shallow and deep. Other lots in Cape Windsor, though also small, are deeper lots which provide a larger building envelope. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code due to the small size of the lot. The variances are necessary to enable reasonable use of the Property. The proposed dwelling, deck, and HVAC unit are reasonable in size and are similar to others in the neighborhood. As testified by the Applicant, a dwelling on a neighboring property is very similar in design as the Applicant's proposed dwelling. The hardship and exceptional practical difficulty were not created by the Applicant. The hardship and difficulty were caused by the size of the lot which was not created by the Applicant. The variances will not alter the essential character of the neighborhood as there are other similar homes in the neighborhood. The use is not detrimental to the public welfare. 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