

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BANC HOLDINGS, LLC

(Case No. 11468)

A hearing was held after due notice on 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 requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 21.4 feet from the sixty (60) feet front yard setback requirement for an existing building and a variance of 21.6 feet from the sixty (60) feet front yard setback requirement for another existing building. This application pertains to certain real property located on the north side of Route 9 (Lewes Georgetown Highway) 0.45 mile east of County Road 249 (Shingle Point Road) (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 1-35-16.00-73.00). 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. Bradford Riedle was sworn in to testify about the Application and Chad Meredith, Esquire, presented the case on behalf of the Applicant. Mr. Meredith also submitted exhibits to the Board to review.
3. The Board found that Mr. Meredith stated that the buildings were built in 2002 and 2006 and that the front yard setback requirement was forty (40) feet at the time of the construction of the buildings.
4. The Board found that Mr. Meredith stated that the front yard setback requirement has since been expanded to sixty (60) feet.
5. The Board found that Mr. Meredith stated that a predecessor in title constructed the buildings and that Certificates of Compliance were issued for the buildings.
6. The Board found that Mr. Meredith stated that the Applicant purchased the Property at a Sheriff's sale in January 2012.
7. The Board found that Mr. Meredith stated that the area has a mixed use with residential and commercial properties nearby and that there are other commercial buildings similarly situated on the adjacent properties.
8. The Board found that Mr. Meredith stated that, in the 1960s, the Delaware Department of Transportation ("DelDOT") had an easement agreement to acquire five (5) feet on the north side of the Property adjacent to Route 9.
9. The Board found that Mr. Meredith stated that the change in the setback requirement makes the Property unique.
10. The Board found that Mr. Meredith stated that it would create an exceptional practical difficulty and undue hardship to move the buildings into compliance and there would be little to no benefit to neighboring properties.
11. The Board found that Mr. Meredith stated that the variances are necessary to enable reasonable use of the Property.
12. The Board found that Mr. Meredith stated that the Property cannot otherwise be developed.
13. The Board found that Mr. Meredith testified that the difficulty was not created by the Applicant.

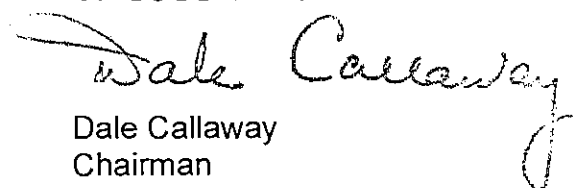
14. The Board found that Mr. Meredith testified that the variances do not alter the character of the neighborhood.
15. The Board found that Mr. Meredith stated that the variances will not substantially or permanently impair the uses of the neighboring or adjacent properties as those properties are already developed.
16. The Board found that Mr. Meredith stated that the use is not detrimental to the public welfare.
17. The Board found that Mr. Meredith stated that the variances are the minimum variances to afford relief and that the variances represent the least modifications of the regulation at issue.
18. The Board found that Mr. Riedel testified that he has been a realtor for 27 years and that he has worked in the area for twelve (12) years and is familiar with the Property.
19. The Board found that Mr. Riedel testified that there is no negative affect to the surrounding property values.
20. The Board found that Mr. Riedel testified that he confirms the statements made by Mr. Meredith.
21. The Board found that no parties appeared in support of or 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 change in the setback requirements created a unique situation. The Property is also unique in shape and due to the location of a utility easement located thereon. The variances are necessary to enable reasonable use of the Property. The buildings constitute a reasonable use of the Property. The exceptional practical difficulty and hardship were not created by the Applicant. The buildings were placed by a prior owner of the Property and the Applicant purchased the Property in its current state a sheriff's sale. The variances will not alter the essential character of the neighborhood as other buildings in the neighborhood appear to be a similar distance from the road. The buildings have also been in their current location for several years. The variances sought are the minimum variances necessary to afford relief. The variances represent the least modifications 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 16, 2014