

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: LIDO REALTY CO.**

**(Case No. 11478)**

A hearing was held after due notice on November 3, 2014. The Board members present were: 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 setback requirement and the requirement for the number of parking spaces.

Findings of Fact

The Board found that the Applicant was seeking a variance of 36.1 feet from the sixty (60) feet front yard setback requirement for a proposed office building, a variance of four (4) parking spaces from the sixteen (16) parking space requirement for the proposed office building, and a variance of 42 feet from the sixty (60) feet front yard setback requirement for a set of steps and a landing. This application pertains to certain real property located southwest of Route One (Coastal Highway) 100 feet northeast of Bay Road (a.k.a. Canal Road) and 1,300 feet southeast of the Lewes and Rehoboth Canal Bridge (911 Address: 20616 Coastal Highway, Rehoboth Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-19.08-177.00. 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 of the Application.
2. James Fuqua was sworn in to testify about the Application and James Fuqua, Jr., Esquire, was presented the Application. Mr. Fuqua, Jr., submitted exhibits to the Board to review.
3. The Board found that Mr. Fuqua, Jr., stated that the representative for the Applicant is his son James Fuqua.
4. The Board found that Mr. Fuqua, Jr., stated that Dewson Construction is under contract to purchase the Property pending the Board's approval.
5. The Board found that Mr. Fuqua, Jr., stated that Dewson Construction is a custom builder and plans to demolish the existing building and construct a new office building.
6. The Board found that Mr. Fuqua, Jr., stated that the Property is located along Route 1 south of the Route 1 Canal Bridge north of Dewey Beach and is zoned commercial.
7. The Board found that Mr. Fuqua, Jr., stated that the Property is unusual in shape as it is shaped like a boot.
8. The Board found that Mr. Fuqua, Jr., stated that the shape of the Property limits development.
9. The Board found that Mr. Fuqua, Jr., stated that the lot was originally created in its current shape.
10. The Board found that Mr. Fuqua, Jr., stated that the Property has 106 feet of road frontage on Route One and tapers to just 25 feet in the rear of the Property.
11. The Board found that Mr. Fuqua, Jr., stated that the existing building has a front yard setback of 23.9 feet.
12. The Board found that Mr. Fuqua, Jr., stated that the Applicant wants the proposed building in the same location as the existing building.
13. The Board found that Mr. Fuqua, Jr., stated that the Property was used previously for a Cross Fit gym, a bar, and a restaurant.

14. The Board found that Mr. Fuqua, Jr., stated that the existing structure was built prior to the sixty (60) feet front yard setback requirement.
15. The Board found that Mr. Fuqua, Jr., stated that the new structure will be no closer to Route 1 than the existing structure.
16. The Board found that Mr. Fuqua, Jr., stated that there are other structures in the area which are similar distances from Route One, including a neighboring motel.
17. The Board found that Mr. Fuqua, Jr., stated that the proposed building will be a two (2) story, 3,200 square-foot structure.
18. The Board found that Mr. Fuqua, Jr., stated that the Property also has access to Bay Road and that the proposed traffic flow will enter from Route One and exit to Bay Road.
19. The Board found that Mr. Fuqua, Jr., stated that the number of required parking spaces for the proposed office building is not necessary for a custom home builder's office and that twelve (12) parking spaces are more than adequate for the proposed use.
20. The Board found that Mr. Fuqua, Jr., stated that the unique shape of the Property makes it difficult to develop the Property in a reasonable manner in strict conformity with the Sussex County Zoning Code.
21. The Board found that Mr. Fuqua, Jr., stated that the variances are necessary for the reasonable use of the Property.
22. The Board found that Mr. Fuqua, Jr., stated that the difficulty was not created by the Applicant.
23. The Board found that Mr. Fuqua, Jr., stated that the variances will not alter the character of the neighborhood.
24. The Board found that Mr. Fuqua, Jr., stated that the proposed building will improve the Property and that the variances are the minimum variances necessary to afford relief.
25. The Board found that Mr. Fuqua, under oath, confirmed the statements made by Mr. Fuqua, Esquire.
26. The Board found that one (1) party appeared in support of the Application.
27. The Board found that no parties appeared in opposition to the Application.
28. Based on the findings above and the testimony and evidence 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 size and shape. The Property is shaped like a boot with a very narrow width near the rear yard property line. The unique shape of the Property makes it difficult to develop the Property in strict conformity with the Sussex County Zoning Code and, thus, the variances are necessary to enable reasonable use of the Property. The Applicant is proposing to replace an older structure which has been used commercially for years with a new building that will serve as an office. The use is reasonable and the variances will enable the Applicant to place the office building on the site while providing for reasonable parking. The exceptional practical difficulty and hardship were not created by the Applicant. The Property was created many years ago prior to the enactment of the requirement that front yard setback be sixty (60) feet. The unusual shape of the Property, combined with the greater front yard setback requirement, create the difficulty and hardship for the Applicant. The variances will not alter the essential character of the neighborhood. Structures on neighboring properties are a similar distance from Route 1. The variances sought are the minimum variances necessary to afford relief. The variances represent the least modifications of the regulations 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. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application. Mr. Dale Callaway did not participate in the discussion or vote of this 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 January 6, 2015