

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY
IN RE: TIMOTHY L. LYLE, TRUSTEE OF THE TIMOTHY L. LYLE
LIVING TRUST and EILEEN F. LYLE, TRUSTEE OF THE
EILEEN F. LYLE LIVING TRUST

(Case No. 11480)

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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 0.1 feet from the five (5) feet rear yard setback requirement for an existing shed, a variance of 0.5 feet from the five (5) feet rear yard setback requirement for an existing shed, a variance of 16.4 feet from the twenty (20) feet rear yard setback requirement for an existing detached garage, and a variance for 16.1 feet from the twenty (20) feet rear yard setback requirement for an existing detached garage. This application pertains to certain real property located northeast of Road 208 (Sapp Road) 1,598 feet northwest of Road 206 (Cedar Neck Road) (911 Address: 20835 Sapp Road, Milford, DE); said property being identified as Sussex County Tax Map Parcel Number 3-30-8.00-21.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.
2. Timothy Lyle was sworn in to testify about the Application and Jonathan Horner, Esquire, was presented the Application.
3. The Board found that Mr. Horner stated that the Applicants purchased the Property in February 2013 and that the survey completed for settlement showed the encroachments into the rear yard setback.
4. The Board found that Mr. Horner stated that Property was initially developed as a large family farm and was subsequently subdivided.
5. The Board found that Mr. Horner stated that the existing shed was built in 1970 and the existing detached garage was built in 1975.
6. The Board found that Mr. Horner stated that an addition was built on the existing detached garage in 1991.
7. The Board found that Mr. Horner stated that it would be an exceptional practical difficulty to move the structures into compliance because both structures have concrete bases.
8. The Board found that Mr. Horner stated that the Property cannot be developed in strict conformity with the zoning ordinance without a variance.
9. The Board found that Mr. Horner stated that the variances are necessary to enable reasonable use of the Property.
10. The Board found that Mr. Horner stated that the difficulty was not created by the Applicants as the structures were constructed prior to the Applicants' ownership of the Property.
11. The Board found that Mr. Horner stated that the variances will not alter the essential character of the neighborhood.

12. The Board found that Mr. Horner stated that the Property is adjacent to a large farm owned by the Seller who does not object to the relief sought by the Applicants.
13. The Board found that Mr. Horner stated that the variances will not be detrimental to neighboring properties or to the public welfare.
14. The Board found that Mr. Horner stated that the variances are the least modifications to regulate the issue and that the variances are the minimum variances to afford relief.
15. The Board found that Mr. Lyle affirmed the statements made by Mr. Horner as true and correct.
16. The Board found that two (2) parties appeared in support of the Application.
17. The Board found that no parties appeared in opposition to the Application.
18. 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 that it was developed many years ago as a farm but was later subdivided. The variances are necessary to enable reasonable use of the Property. The shed and garage are reasonable uses of the Property but cannot be moved because they have concrete bases. As such, the shed and garage cannot be placed in strict conformity with the Sussex County Zoning Code. The exceptional practical difficulty and hardship were not created by the Applicants as the encroaching structures were placed on the lot by a prior owner. The variances will not alter the essential character of the neighborhood. The Property is adjacent to farmland and neighbors do not object to the variances. The structures have also been in their current location for many years without complaint. 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. 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