

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FREDERICK FERRY

(Case No. 11482)

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 variance from the height requirement for a fence.

Findings of Fact

The Board found that the Applicant was seeking a variance of one (1) foot from the seven (7) feet maximum height requirement for a fence. This application pertains to certain real property located southwest of Road 279 (Camp Arrowhead Road) northeast of Sand Bay Drive and being Lot 112 within The Villages of Herring Creek (911 Address: 33969 Sand Bay Drive, Lewes, DE); said property being identified as Sussex County Tax Map Parcel Number 2-34-12.00-308.00. After a hearing, the Board made the following findings of fact:

1. The Board found that Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.
2. Frederick Ferry was sworn in to testify about the Application.
3. The Board found that Mr. Ferry testified that he would like to erect 100 feet of eight (8) feet high fencing on his rear property line to match the existing fence on neighboring property.
4. The Board found that Mr. Ferry testified that the Property is unique because an eight (8) feet tall fence already exists in the development.
5. The Board found that Mr. Ferry testified that the variance will not alter the essential character of the neighborhood and that the fence will bring his property into conformity with the development.
6. The Board found that Mr. Ferry testified that the fence will not impair the uses of the neighboring and adjacent properties and the variance will not be detrimental to the public welfare.
7. The Board found that Mr. Ferry testified that the variance represents the least modification of the regulation at issue.
8. The Board found that Mr. Ferry testified that the difficulty was not created by the Applicant.
9. The Board found that Mr. Ferry testified that he recently cleared his property of existing brush that he believes prevented the existing fence to be placed along his property.
10. The Board found that Mr. Ferry testified that there was heavy brush on the eight (8) lots which do not have the existing fence.
11. The Board found that Mr. Ferry testified that the adjacent property to the rear of his lot is not within the development.
12. The Board found that Mr. Ferry submitted a letter of support to the Application from the Homeowners Association.
13. The Board found that one (1) party appeared in support of the Application.
14. The Board found that no parties appeared in opposition to the Application.
15. 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 because it was previously covered by brush and is adjacent to other lands in the Villages at Herring Creek development that are bordered by an eight (8) feet tall fence. The

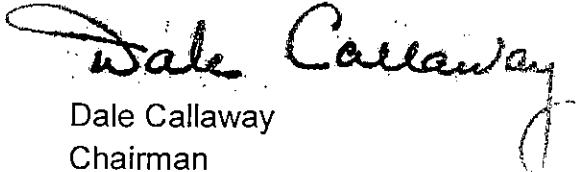
fence did not extend onto the Property which is a unique circumstance. The variance is necessary to enable reasonable use of the Property. The fence is consistent with fencing on neighboring property and is a reasonable use of the land. The exceptional practical difficulty and hardship were not created by the Applicant. The variance will not alter the essential character of the neighborhood. Similar fencing is found on most lots in the neighborhood, including adjacent land, and the homeowners association has indicated its support of the Application. The variance sought is the minimum variance necessary to afford relief as the variance will enable the Applicant to construct a fence consistent with the fencing on adjacent land.

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.