

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MADON CHURCH, LLC

(Case No. 11489)

A hearing was held after due notice on November 17, 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 setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of two (2) feet from the ten (10) feet side yard setback requirement for a proposed dwelling on both sides of the Property. This application pertains to certain real property located north of Route 54 (Lighthouse Road) and being northwest of Canvasback Road approximately 0.25 mile northeast of Swann Drive and being Lot 81 Block D in Swann Keys Subdivision (911 Address: 37021 Canvasback Road, Selbyville, DE); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-342.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, and a survey of the Property dated September 17, 2014.
2. The Board found that the Office of Planning and Zoning received no correspondence regarding the Application.
3. Todd Crkvenac was sworn in to testify about the Application. Timothy Willard, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.
4. The Board found that Mr. Willard stated that the Property is located in Swann Keys.
5. The Board found that Mr. Willard stated that the Property is small and is unique as it measures 40 feet by 100 feet.
6. The Board found that Mr. Willard stated that a lagoon is at the rear of the Property.
7. The Board found that Mr. Willard stated that the development was designed as a mobile home park but the majority of homes in the development now are stick built dwellings.
8. The Board found that Mr. Willard stated that the existing manufactured home encroaches into the front and side yard setback areas.
9. The Board found that Mr. Willard stated that the existing manufactured home will be torn down and replaced with a two (2) story dwelling.
10. The Board found that Mr. Willard stated that the proposed dwelling will comply with front and rear yard setback requirements.
11. The Board found that Mr. Willard stated that the proposed dwelling will lessen the degree of non-conformity on the Property.
12. The Board found that Mr. Willard stated that the size of the lot and the non-conforming manufactured home make the lot unique.
13. The Board found that Mr. Willard stated that the proposed dwelling encroaches less than the existing manufactured home.
14. The Board found that Mr. Willard stated that the variances are necessary to enable reasonable use of the Property.
15. The Board found that Mr. Willard stated that the difficulty was not created by the Applicant.

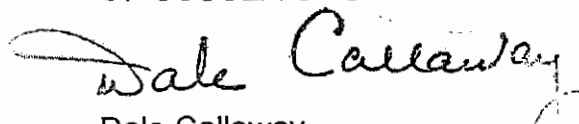
16. The Board found that Mr. Willard stated that the variances will not alter the character of the neighborhood and the proposed dwelling will improve the neighborhood.
17. The Board found that Mr. Willard stated that there have been several variances granted in the development.
18. The Board found that Mr. Willard stated that the variances are the minimum variances to afford relief.
19. The Board found that Mr. Crkvenac confirmed the statements made by Mr. Willard as being true and correct.
20. The Board found that Mr. Crkvenac testified that the proposed dwelling will be approximately 1,400 square-feet.
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 evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is unique in size as it is only 40 feet by 100 feet, which is small. The Property is also located within a flood zone.
 - b. Due to the size of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code and the variances are necessary to enable reasonable use of the Property. The proposed dwelling is reasonably sized and improves the degree of non-conformity on the lot.
 - c. The exceptional practical difficulty and unnecessary hardship were not created by the Applicant. The size of the lot was created many years ago.
 - d. The variance will not alter the essential character of the neighborhood. Similar variances have been granted on nearby properties and the proposed dwelling is within the character of the neighborhood.
 - e. The variances sought are the minimum variances necessary to afford relief as the variances will enable the Applicant to place the dwelling on the Property.

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 January 27, 2015