

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

**IN RE: CHARLES STRAUGHAN & MARY LOU STRAUGHAN**

**(Case No. 11502)**

A hearing was held after due notice on December 15, 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, side yard, and maximum height requirements for a dwelling.

Findings of Fact

The Board found that the Applicants were seeking a variance of 20.3 feet from the thirty (30) feet front yard setback requirement for an existing dwelling, a variance of 8.4 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 8.2 feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a request to raise the existing dwelling four (4) feet. This application pertains to certain real property located west of Bunting Road approximately 132 feet south of Lighthouse Road (Route 54) and approximately 66 feet north of Fenwick Avenue (State Line Road) and being in the unincorporated area of Fenwick Island (911 Address: 38956 Bunting Avenue, Fenwick Island, DE); said property being identified as Sussex County Tax Map Parcel Number 1-34-23.20-164.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, an undated survey of the Property, and a proposal from East Coast Structural Movers.
2. The Board found that the Office of Planning and Zoning received no correspondence regarding the Application.
3. Charles Straughan and Mary Lou Straughan were sworn in to testify the Application.
4. The Board found that Mr. Straughan testified that the existing dwelling was built in 1946 and that his family purchased the Property in 1947.
5. The Board found that Mr. Straughan testified that he and his brother inherited the property in 2007 and that he purchased the Property a year later.
6. The Board found that Mr. Straughan testified that the lot is only 32 feet wide and that the dwelling is 24.3 feet wide at its widest point.
7. The Board found that Mr. Straughan testified that the Applicants plan to raise the existing dwelling and decks by four (4) feet.
8. The Board found that Mr. Straughan testified that the Property is unique due to its size and the fact that the dwelling was built in 1946.
9. The Board found that Mr. Straughan testified that the interior of the dwelling was completely renovated in 2009.
10. The Board found that Mr. Straughan testified that the existing footprint of the dwelling has never changed.
11. The Board found that Mr. Straughan testified that the decks were built in the late 1970s or early 1980s.
12. The Board found that Mr. Straughan testified that the dwelling will be raised to a height similar to other homes in the neighborhood.
13. The Board found that Mr. Straughan testified that there have been no objections from the neighbors.
14. The Board found that Mr. Straughan testified that the hardship was not created by the Applicants.

15. The Board found that Mr. Straughan testified that the variances will not alter the character of the neighborhood.
16. The Board found that Mr. Straughan testified that raising the dwelling will prevent further water damage and that the dwelling will be under 42 feet tall.
17. The Board found that Mr. Straughan testified that the stairs will not encroach any further into the setback areas.
18. The Board found that no parties appeared in support of or in opposition to the Application.
19. 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 because it is extremely narrow. The lot is only 32.02 feet wide and the size of the lot creates an exceptional practical difficulty. The situation is also unique because the dwelling was built in 1946, which was prior to the enactment of the Sussex County Zoning Code. The decks have been there for many years as well.
  - b. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The lot is very narrow and the dwelling was constructed prior to the enactment of the Code. The variances are necessary to enable reasonable use of the Property as they will allow the Applicants to slightly raise the dwelling to protect it against flooding and to bring it to a height similar to other homes in the neighborhood.
  - c. The exceptional practical difficulty was not created by the Applicants. The lot was created many years ago and is very narrow. The dwelling was constructed in 1946 and the decks were later installed by a prior owner. The Applicants are simply seeking to raise the structures to protect the home and they are not creating the difficulty. The exceptional practical difficulty arises due to the lot's narrowness and the existence of the non-conforming dwelling and deck which were placed by a prior owner.
  - d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The structures have been in their current locations since for many years and no evidence was presented that the structures have altered the character of the neighborhood or somehow been detrimental to the neighborhood. The approval of these variances allows the existing structures to remain in their locations and to be slightly elevated.
  - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modification possible of the regulations at issue. The Applicants have demonstrated that the variances requested will allow the existing structures to remain and that no additions which require a variance are being sought.

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 February 18, 2015