

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BRUCE STOEHR

(Case No. 11511)

A hearing was held after due notice on January 5, 2015. 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 a variance from the corner yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 8.1 feet from the thirty (30) feet front yard (corner) setback requirement for a proposed attached shed. This application pertains to certain real property located north of Route 54 and being located at the southwest corner of Bayville Shores Drive and Bayview Circle East and being Lot 127 of Bayview Landing Subdivision (911 Address: 37872 Bayview Circle East, Selbyville, DE); said property being identified as Sussex County Tax Map Parcel Number 5-33-13.00-147.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a survey of the Property dated October 9, 2006, pictures of the Property, and a statement from the Applicant.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.
3. Bruce Stoehr was sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the Application on behalf of the Applicant and submitted exhibits to the Board to review including correspondence from neighbors and the homeowners association supporting the Application.
4. The Board found that Mr. Tomasetti stated that the Applicant purchased the Property October 6, 2014.
5. The Board found that Mr. Tomasetti stated that the Applicant seeks to attach his shed to the dwelling.
6. The Board found that Mr. Tomasetti stated that the lot is a corner lot with a thirty (30) feet setback requirement.
7. The Board found that Mr. Tomasetti stated that the Homeowners Association Architectural Review Committee supports the Application.
8. The Board found that Mr. Tomasetti stated that there is an existing buffer which will block any view of the proposed attached shed from Bayville Shores Drive.
9. The Board found that Mr. Tomasetti stated that the shed is a reasonable use of the Property.
10. The Board found that Mr. Tomasetti stated that there will be no effect on surrounding properties because there will be a sufficient buffer.
11. The Board found that Mr. Tomasetti stated that shed will add to the beauty to the neighborhood.
12. The Board found that Mr. Tomasetti stated that the shed is the minimum size needed for the Applicant to use the shed.
13. The Board found that Mr. Tomasetti stated that there have been other variances granted in the development.
14. The Board found that Mr. Stoehr, under oath, confirmed the statements made by Mr. Tomasetti.

15. The Board found that Mr. Stoehr testified that he plans to attach the shed for convenience and accessibility.
16. The Board found that Mr. Stoehr testified that the proposed attached shed will be accessed through an existing door in the existing attached garage.
17. The Board found that Mr. Stoehr testified that he has upcoming knee surgery and he is concerned about being able to access a shed safely in the rear yard.
18. The Board found that Mr. Stoehr testified that the garage is too small for his woodworking hobby and that the shed will provide better access and security if it is attached.
19. The Board found that Planning & Zoning Director Lawrence Lank stated that the standard corner side yard setback requirement is fifteen (15) feet from a lot but this development was designed to maintain thirty (30) feet from all property lines fronting on a street.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. 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 due to its narrow width as shown on the survey and the unusual corner setback requirements for this development. These two factors greatly limit the normal building envelope for the Property. A standard corner lot has a fifteen (15) feet setback requirement but this Property is subject to the unusually large corner yard setback of thirty (30) feet. The unique characteristics of this Property have created an exceptional practical difficulty for the Applicant.
 - b. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant would not be able to attach the shed to the dwelling near his garage without a variance due to the narrow width of the lot and the unusual setback requirements. The Applicant has also testified that moving the shed to the rear yard would be problematic for him as a shed in that location would create accessibility, safety, and security concerns. The Board found this testimony persuasive. The Applicant intends to use the shed for storage and woodworking which are reasonable uses of the Property. It is clear that the variance is necessary to enable the reasonable use of the Property.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant only recently purchased the Property and did not create the narrow lot size, the unusual corner yard setback, or construct the dwelling; all of which limit his ability to place an attached shed in compliance with the Sussex County Zoning Code. The unique characteristics of the Property are clear when reviewing the survey and the difficulty was certainly not created by the Applicant.
 - d. The variance 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 testimony presented by the Applicant demonstrates that similar variances have been granted in the neighborhood and letters from neighbors and the homeowners association indicate that the community supports this application. A buffer also exists from Bayville Shores Drive which shields the shed from view. No evidence was presented which would indicate that the variance would somehow alter the essential character of the neighbor or be detrimental to the public welfare.

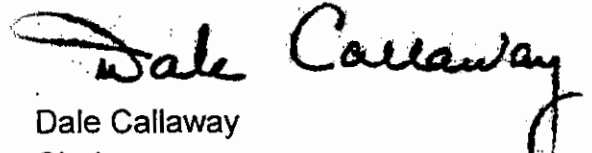
- e. The variance sought is the minimum variance necessary to afford relief and the variance requested represent the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance requested will allow him to construct an attached shed that will meet his needs.

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 March 3, 2015