

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DOUG FRAMPTON & LISA FRAMPTON

(Case No. 11512)

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 front yard, side yard, and rear yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of six (6) feet from the thirty (30) feet front yard setback requirement for a proposed porch and deck, a variance of one (1) foot from the five (5) feet side yard setback requirement for a proposed shed, and a variance of one (1) foot from the five (5) feet rear yard setback requirement for a proposed shed. This application pertains to certain real property located south of First Street approximately 410 feet east of Bald Eagle Road (Road 273A) and being Lots 50, 51, and 52 within Bay Vista Subdivision (911 Address: 37436 1st Street, Rehoboth Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-19.16-14.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a statement from Doug Frampton, and an undated survey of the Property.
2. The Board found that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.
3. Doug Frampton was sworn in to testify about the Application.
4. The Board found that Mr. Frampton testified that the proposed porch and deck will provide a safer access to the dwelling and provide protection from the weather.
5. The Board found that Mr. Frampton testified that the Applicants plan to install a pool in the backyard.
6. The Board found that Mr. Frampton testified that the proposed shed will be used to house the pool equipment and to provide storage for the Property.
7. The Board found that Mr. Frampton testified that the Property is unique since the existing dwelling was built in the dead center of the Property.
8. The Board found that Mr. Frampton testified that the Applicants cannot build into the front yard without a variance due to the location of the dwelling.
9. The Board found that Mr. Frampton testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code.
10. The Board found that Mr. Frampton testified that the variances will not alter the character of the neighborhood.
11. The Board found that Mr. Frampton testified that the front deck is needed for protection from the weather.
12. The Board found that Mr. Frampton testified that the variances will enable reasonable use of the Property.
13. The Board found that Mr. Frampton testified that the proposed shed will be approximately six (6) to eight (8) feet from the proposed pool when completed.
14. The Board found that Mr. Frampton testified that there is no other storage shed or garage on the Property.
15. The Board found that Mr. Frampton testified that the proposed location of the shed is the only place where it could be located.

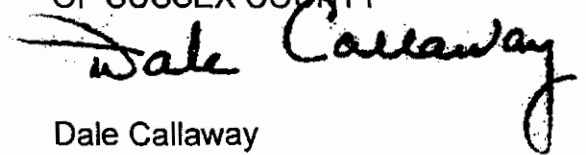
16. The Board found that Mr. Frampton testified that the Applicants believe previous owners buried a pool in the southwest corner of the back yard.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, 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 small size which limits the development of the Property. The Property is also unique as it appears as though a pool was buried in the rear yard thereby limiting the placement of a new pool and shed in the rear yard. The Property's uniqueness has created the exceptional practical difficulty.
 - b. The Property cannot be developed in strict conformity with the Sussex County Zoning Code. The existing dwelling has a small set of stairs for access to the front yard and there is little protection from inclement weather. Due to the location of the dwelling, the Applicants cannot build a reasonable porch and deck to provide better access to the house without a variance. Likewise, the Applicants cannot place a shed in the rear yard that will suit their needs without obtaining a variance. The location of the buried pool and the small size of the lot limit the space where such a shed can be placed. The Applicants have demonstrated that the shed will be used to store pool equipment and to be used for additional storage. There is no other storage shed or garage on the Property. The Board is convinced that the variances requested are necessary to enable reasonable use of the Property.
 - c. The exceptional practical difficulty was not created by the Applicants. The lot size was not created by the Applicants and they did not place the house or buried pool on the Property. Those features create the exceptional practical difficulty which limit the Applicants' ability to develop the Property in a reasonable manner and the difficulty was certainly not something created by the Applicants.
 - 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. No evidence was presented that the encroachments into the setback areas would alter the character of the neighborhood or somehow be detrimental to the neighborhood. Rather, a pool, porch, and shed are uses consistent with residential communities such as this neighborhood.
 - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicants have demonstrated that the variances requested will enable them to construct the reasonable additions to 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 March 3, 2015