

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LAURIE BRONSTEIN

(Case No. 11515)

A hearing was held after due notice on January 26, 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 and corner front yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 17.6 feet from the thirty (30) feet front yard setback requirement for an existing dwelling and proposed addition and a variance of 8.7 feet from the fifteen (15) feet corner front yard setback requirement for an existing and proposed deck. This application pertains to certain real property located northwest of Route 16 (Broadkill Road) and being located at the corner of South Bay Shore Drive and Madison Avenue and also being Lots 7 & 8 Block 4 within Old Broadkill Subdivision (911 Address: 307 South Bay Shore Drive, Milton, DE); said property being identified as Sussex County Tax Map Parcel Number 2-35-4.17-51.00.

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 2, 2014, and pictures of the Property and the neighborhood.
2. Laurie Bronstein was sworn in to testify about the Application and submitted exhibits to the Board to review including pictures, a survey of the Property dated November 7, 2014, and a septic plot plan dated June 25, 2004.
3. The Board found that Ms. Bronstein testified that the existing dwelling is fifty (50) years old and in need of major renovations.
4. The Board found that Ms. Bronstein testified that the second floor of the dwelling is not usable on the side and that the proposed second floor addition will keep the same footprint as the existing dwelling but will provide more usable space on that floor.
5. The Board found that Ms. Bronstein testified that the dwelling and neighboring dwellings both sit close to the road and that many homes in the area violate the front yard setback requirements.
6. The Board found that Ms. Bronstein testified that Madison Avenue is similar to a driveway and provides access to her neighbor.
7. The Board found that Ms. Bronstein testified that the existing deck is irregularly shaped and is fourteen (14) feet wide at its widest point.
8. The Board found that Ms. Bronstein testified that the proposed deck will be fourteen (14) feet wide throughout and will wrap around the rear of the house.
9. The Board found that Ms. Bronstein testified that the proposed width of the deck will provide a more usable outdoor space.
10. The Board found that Ms. Bronstein testified that a portion of the yard is a designated driveway to the neighbor's property.
11. The Board found that Ms. Bronstein testified that an adjacent lot is used for three (3) septic systems that service her dwelling and two (2) of her neighbor's dwellings.
12. The Board found that Ms. Bronstein testified that the renovations will bring the property more into character with the neighborhood as there are nicer homes which have been constructed nearby.

13. The Board found that Ms. Bronstein testified that wetlands take up a portion of the Property and that a significant portion of the rear of her yard is used as an access easement for a neighboring property.
14. The Board found that Ms. Bronstein testified that the Property cannot be developed in strict conformity without a variance.
15. The Board found that Ms. Bronstein testified that she did not build the house or the decks.
16. The Board found that Ms. Bronstein testified that the variance requested will allow the house to remain in its current location with additions made thereto and to allow the deck to be renovated so that it is fourteen (14) feet wide throughout rather than irregularly shaped as it is now.
17. The Board found that Ms. Bronstein testified that the variances will not impair the uses of the neighboring and adjacent properties.
18. The Board found that Ms. Bronstein testified that two of the nearby lots have already been developed with homes.
19. The Board found that Ms. Bronstein testified that the variances will not be detrimental to the public welfare.
20. The Board found that Ms. Bronstein testified that the variances represent the least modifications of the regulations at issue and are the minimum variances to afford relief.
21. The Board found that Ms. Bronstein testified that the footprint of the house is very narrow.
22. The Board found that Ms. Bronstein testified that the width of the deck allows for more usable outdoor space.
23. The Board found that one (1) party appeared in support of the Application.
24. The Board found that no parties appeared in opposition to the Application.
25. 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 the existence of wetlands and an access easement on the Property. These unique conditions limit the Applicant's ability to reasonably develop the Property and create an exceptional practical difficulty. This difficulty is apparent when reviewing the surveys, septic plot plan, and photographs.
 - b. Due to the unique conditions of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The dwelling, which was built approximately 50 years ago, needs major renovations and the Applicant seeks to add an additional level to the dwelling and to expand the existing deck. These renovations cannot be completed in strict conformity with the Sussex County Zoning Code. The building limitations caused by the existing easement and wetlands limit the Applicant's buildable area thereby creating the exceptional practical difficulty. The proposed renovations are reasonable and consistent with other construction in the neighborhood; which is clear upon review of the photographs provided by the Applicant. Accordingly, the variances are necessary to enable reasonable use of the Property.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not construct the original dwelling and deck and the Applicant only seeks to add an additional floor to the dwelling on the same footprint. This renovation will comply with all height requirements set forth in the Sussex County Code. Likewise, the Applicant seeks to improve the existing irregularly shaped deck and the renovated deck will not encroach

into the setback area any farther than the existing deck. The Applicant is limited in where she can make these renovations due to the existing wetlands and access easement on the Property. The need for the variances was certainly not created by the Applicant. The unique characteristics of the Property are clear when reviewing the septic plot plan and the survey.

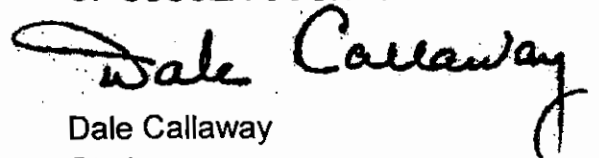
- d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The dwelling and deck have been in their current locations for many years and no evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, the evidence provided to the Board indicates that neighboring properties have already been developed and that other homes in the neighborhood are similarly situated from the road. The Applicant also testified that the renovations will improve the dwelling, which has become an eyesore in the community due to its condition.
- 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 Applicant has demonstrated that the variances requested will allow the existing dwelling to be renovated and the existing deck to be reasonably expanded in a manner that will provide the Applicant with better use of 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