

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

**IN RE: MICHAEL KRATZ and CAITLIN KRATZ**

**(Case No. 11522)**

A hearing was held after due notice on February 2, 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 setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 1.4 feet from the thirty (30) feet front yard setback requirement for an existing dwelling. This application pertains to certain real property located east of Road 270A (Munchy Branch Road) and being southeast corner of Chesapeake drive, approximately 100 feet north of Beachfield Drive and being more specifically Lot 1 Block C within Beachfield Subdivision (911 Address: 110 Chesapeake Drive, Rehoboth Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-520.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a survey of the Property dated November 13, 2014, and photographs of the Property.
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. Sherry Nowicki was sworn in to testify about the Application and Chad Meredith, Esquire, presented the case on behalf of the Applicants.
4. The Board found that Mr. Meredith stated that the Beachfield Subdivision was created in 1973.
5. The Board found that Mr. Meredith stated that the existing dwelling was built in 1974, the detached garage was built in 1975, and an addition to the garage was constructed in 1982.
6. The Board found that Mr. Meredith stated that the Applicants purchased the Property in December 2014 and a recent survey revealed that the northeast corner of the dwelling encroached into the front yard setback area.
7. The Board found that Mr. Meredith stated that most homes in Beachfield are similarly situated.
8. The Board found that Mr. Meredith stated that the prior owner obtained and provided copies of all building permits and certificates of compliances issued for all structures.
9. The Board found that Mr. Meredith stated that the Property is odd in shape as it fronts the curve of Chesapeake Drive and that the front property line is curved. The dwelling was built at an angle on the Property.
10. The Board found that Mr. Meredith stated that it would be an exceptional practical difficulty to bring the Property into compliance now and that the Property cannot otherwise be developed in strict conformity to the Sussex County Code.
11. The Board found that Mr. Meredith stated that the variance is necessary to enable the reasonable use of the Property.
12. The Board found that Mr. Meredith stated that the exceptional practical difficulty was not created by the Applicants.
13. The Board found that Mr. Meredith stated that the use will not impair the uses of adjacent and neighboring properties and that the variance will also not alter the essential character of the neighborhood as the need for the variance has not

been noticed even though the structures have been on the Property for many years.

14. The Board found that Mr. Meredith stated that the use will not be detrimental to the public welfare.
15. The Board found that Mr. Meredith stated that the variance is the minimum variance to afford relief and that the variance represents the least modification of the regulation at issue.
16. The Board found that Ms. Nowicki testified that she is the listing agent for the Property and that the use will not have an adverse effect on the adjacent and neighboring properties.
17. The Board found that Ms. Nowicki testified that she confirms the statements made by Mr. Meredith to be true and correct.
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 due to its unusual shape. The Property is pie-shaped with a curved front yard that is quite apparent when reviewing the survey. The unique shape of this Property has created an exceptional practical difficulty for the Applicants.
  - b. Due to the unique shape of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants seek approval to keep the existing structure on the Property but are unable to do so without violating the Sussex County Zoning Code. A recent survey shows that the corner of the dwelling slightly encroaches into the front yard setback. The Board is convinced that the Applicant would suffer an exceptional practical difficulty if they were required to bring the structure into compliance. The Board found that the variance is thus necessary to enable the reasonable use of the Property as the variance will allow the existing structure to remain on the Property. The survey attached to the Application confirms that the structure is reasonable in size and shape.
  - c. The exceptional practical difficulty was not created by the Applicants. The Applicants only recently purchased the Property and did not create its unusual shape nor did the Applicants place the structure on the Property. The shape of the Property has created the exceptional practical difficulty. The unique characteristics of the Property are clear when reviewing the survey. Furthermore, the previous owner placed the existing structure on the Property many years ago.
  - 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 existing structure has been in its present location for many years without complaint. Given the amount of time the structure has been on the Property, it is likely that the structure is part of the character of the neighborhood. No evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood 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

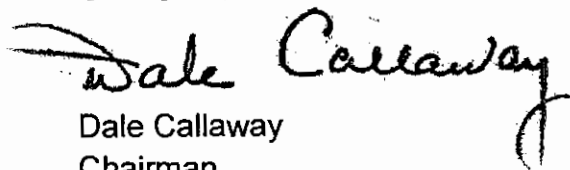
the regulation at issue. The variance will allow the existing structure to remain in its current location.

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 April 7, 2015