

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DEBORAH L. HICKMAN

(Case No. 11527)

A hearing was held after due notice on February 16, 2015. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the lot width requirement for a parcel.

Findings of Fact

The Board found that the Applicant was seeking a variance of 30.1 feet from the 150 feet lot width requirement for a parcel for proposed Lot 2, and a variance of 30.50 feet from the 150 feet lot width requirement for a parcel for proposed Lot 1. This application pertains to certain real property located south of Route 26 (Vines Creek Road) approximately 2,800 feet east of Road 382 (Armory Road) (911 Address: 30050 Vines Creek Road, Dagsboro, DE); said property being identified as Sussex County Tax Map Parcel Number 2-33-11.00-175.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a portion of the Sussex County Code, and a survey of the Property dated September 9, 2014.
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. Duane Marvel and Deborah Hickman were sworn in to testify about the Application.
4. The Board found that Ms. Marvel testified that the Property has been in the family for years and that the three (3) acre parcel is proposed to be split into two lots. The surveyor came up with the proposed subdivision which allows the family to divide the Property equally.
5. The Board found that Ms. Marvel testified that the Property is narrow in the front and widens at the rear which makes the Property unique.
6. The Board found that Ms. Marvel testified that there will be a shared driveway.
7. The Board found that Ms. Marvel testified that the subdivision will allow her to build a dwelling and be near her mother who is in poor health.
8. The Board found that Ms. Marvel testified that the variances will not alter the character of the neighborhood. The Property is currently vacant and the Applicant intends to place a home and a garage on the lot which will improve the Property.
9. The Board found that Ms. Marvel testified that the variances will not impair the uses of neighboring and adjacent properties.
10. The Board found that Ms. Marvel testified that no variance would be needed if the front property line was as wide as the rear property line.
11. The Board found that Ms. Marvel testified that the Property has an odd shape.
12. The Board found that Ms. Marvel testified that the difficulty was not created by the Applicant.
13. The Board found that Ms. Marvel testified that the Property cannot be subdivided without a variance and that the variances requested are the minimum variances to afford relief.
14. The Board found that one (1) party appeared in support of the Application.
15. The Board found that no parties in opposition to the Application.

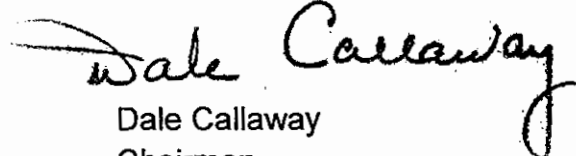
16. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
- a. The Property is unique due to the fact that the Property is narrower in the front than in the rear thereby resulting in an odd shape. The unique characteristics of this Property have created an exceptional practical difficulty for the Applicant.
 - b. Due to the unique shape of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to subdivide the Property into two lots but is unable to do so without violating the Sussex County Zoning Code because the front of the Property is too narrow. If the front of the Property was as wide as the rear of the Property, no variance would be necessary. The Board is convinced that the proposed subdivision is reasonable and that the variances are necessary to enable the reasonable use of the Property as the variances will allow the Applicant to fairly subdivide the Property. The survey attached to the Application confirms that the subdivision is reasonable.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the shape of the Property which limits the proposed subdivision. The unique characteristics of the Property are clear when reviewing 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 proposed subdivision will create two lots of approximately 1.5169 acres apiece which are reasonably sized. The Applicant intends to place a house and garage on one of the lots which will improve the neighborhood. The properties will share a driveway so there will be no additional entrance onto the adjacent road. No evidence was presented which would indicate that the subdivision would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
 - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modification possible of the regulation at issue. The Applicant has demonstrated the variances will allow the proposed subdivision to take place.

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, 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