

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

**IN RE: DEBRA FOLSOM**

**(Case No. 11528)**

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 variances from the side yard and front yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5.5 feet from the ten (10) feet side yard setback requirement for an existing dwelling and a variance of 2.25 feet from the thirty (30) feet front yard setback requirement for a proposed porch. This application pertains to certain real property located south of Route 24 (John J. Williams Highway) and being northeast of Dodd Avenue approximately 169 feet southeast of Paynter Lane and being Lot 60 within Truitt's Midway Development Company Subdivision (911 Address: 504 Dodd Avenue, Rehoboth Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 3-34-12.00-156.00.

1. The Board was given copies of the Application, responses to the standards for granting a variance, and a survey of the Property dated December 27, 2012.
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. Debra Folsom was sworn in to testify about the Application and presented pictures to the Board to review.
4. The Board found that Ms. Folsom testified that she purchased the Property approximately two (2) years ago. The Property has been in her family since 1970.
5. The Board found that Ms. Folsom testified that the existing six hundred (600) square-foot dwelling was built in 1970 and that the proposed addition will be 530-square-foot in size.
6. The Board found that Ms. Folsom testified that the side yard property line is adjacent to an existing buffer to the Rehoboth Mall property and that the service road for the mall also runs along that property line.
7. The Board found that Ms. Folsom testified that Dodd Avenue was a dirt road until recently and is a dead end road.
8. The Board found that Ms. Folsom testified that the variances will not alter the character of the neighborhood.
9. The Board found that Ms. Folsom testified that the Property is unique in size as it is narrow and deep and the Property also has a sloping rear yard which holds water and is not suitable to build.
10. The Board found that Ms. Folsom testified that the Property cannot be developed in strict conformity with the Sussex County Zoning Code.
11. The Board found that Ms. Folsom testified that her brother owns a nearby property.
12. The Board found that Ms. Folsom testified that the proposed porch will not extend further into the setback than the existing dwelling.
13. The Board found that Ms. Folsom testified that the variances requested are minimum variances to afford relief. She was unaware of the need for a variance until recently.

14. The Board found that Steve Folsom, who is the Applicant's brother, was sworn in and testified in support of the Application. He owns the property across the street.
15. The Board found that Mr. Folsom testified that he believes the proposed addition will enhance his sister's property and its value.
16. The Board found that one (1) party appeared in support of the Application.
17. The Board found that no parties appeared 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 unrebutted, 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 narrowness and shallow rear yard which accumulates water. The rear yard is unsuitable for building and greatly limits the area where the Applicant can build a home or addition thereto. The unique characteristics of this Property have created an exceptional practical difficulty for the Applicant.
  - b. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The existing dwelling is only 600 square feet and the Applicant seeks approval to keep the existing dwelling in its current location and for approval to add a reasonable addition. She is unable to do so, however, without violating the Sussex County Zoning Code because the lot is narrow and the rear of the Property is unbuildable. The Applicant also did not construct the existing dwelling. The Board is convinced that the existing dwelling, proposed porch and addition are reasonable and that the variances are necessary to enable the reasonable use of the Property. The survey and photographs confirm that the proposed use is reasonable.
  - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the shape of the Property or cause the water retention issues in the rear yard that limit the buildable area. The Applicant also did not construct the dwelling on the Property. 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 dwelling has been in its present location since 1970 without complaint. The testimony and evidence confirm that Dodd Avenue is a dead-end street which has only recently been paved. The Applicant's neighbor supports the variance requests and believes that the addition will enhance the Property. No evidence was presented which would indicate that the dwelling, addition, or porch will 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 existing dwelling to remain and for the proposed additions to be constructed.

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