

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

## **IN RE: LAUREN HARDING**

**(Case No. 11532)**

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 and separation requirement between units in a residential planned community.

### Findings of Fact

The Board found that the Applicant was requesting a variance of 0.5 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 1.9 feet from the thirty (30) feet front yard setback requirement for an existing porch, a variance of 0.2 feet from the twenty (20) feet separation requirement between units in a residential planning community, which was a condition of the RPC approval, and a variance of 0.4 feet from the ten (10) feet side yard setback requirement for an existing dwelling. This application pertains to certain real property located southeast of Route 24 (John J. Williams Highway) and being southwest of White Pine Drive approximately 750 feet southeast of Route 24 (John J. Williams Highway) and being Lot 8 of the Pines at Long Neck Community (911 Address: 21 White Pine Drive, Millsboro, DE); said property being identified as Sussex County Tax Map Parcel Number 2-34-23.00-717.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, and a survey of the Property dated December 8, 2014.
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. Lauren Harding was sworn in to testify about the Application and she submitted pictures for the Board to review.
4. The Board found that Mr. Harding testified that she purchased the Property in 2014. The dwelling and rear deck / sunroom existed on the Property at the time of purchase and she did not construct the house, rear deck, and sunroom.
5. The Board found that Mr. Harding testified that an exceptional practical difficulty exists and that the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The variances are also necessary to enable reasonable use of the Property because she needs access to her house.
6. The Board found that Mr. Harding testified that the variances will not alter the essential character of the neighborhood. The structures will enhance the Property's value.
7. The Board found that Mr. Harding testified that the variances will not impair the uses of neighboring and adjacent properties and that the use is not detrimental to the public welfare.
8. The Board found that Mr. Harding testified that the variances requested are the least modifications of the regulations at issue.
9. The Board found that no parties appeared in support of or in opposition to the Application.
10. 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 narrow width and small size. The unique characteristics of this Property have created an exceptional practical difficulty for the Applicant.
- b. Due to the unique size of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to retain an dwelling and deck placed on the Property by a prior owner and to retain a porch placed on the Property by the Applicant. The Board is convinced that the structures are reasonable and that the variances are necessary to enable the reasonable use of the Property. The survey attached to the Application confirms that the structures are reasonable in size, shape, and location.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant only recently purchased the Property and did not create its narrow width and small size. The Applicant also did not place the dwelling and deck 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 and deck have been in their locations since prior to the Applicant's purchase of the Property and without complaint from neighbors. The Applicant testified that the variances will enhance the value of the Property and the Board was convinced, after reviewing the photographs submitted by the Applicant, that the porch and dwelling are reasonable structures that would not negatively impact 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 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 will allow the existing structures to remain in their current locations and no additional variance is required.

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