

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

**IN RE: MARTIN VANDERGRIFF**

**(Case No. 11538)**

A hearing was held after due notice on March 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 8.5 feet from the fifteen (15) feet side yard setback requirement for a proposed pole building. This application pertains to certain real property located northeast of Road 602 (Hunters Cove Road) approximately 400 feet northwest of Road 594 (Oak Road) (911 Address: 13325 Hunters Cove Road, Greenwood, DE); said property being identified as Sussex County Tax Map Parcel Number 4-30-9.00-40.06.

1. The Board was given copies of the Application, a portion of the tax map of the area, and an undated survey of the Property
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. The Board found that Martin Vandergriff was sworn in and testified regarding the Application. Mr. Vandergriff submitted pictures of the Property.
4. The Board found that Mr. Vandergriff testified that the proposed pole building will measure thirty (30) feet by sixty (60) feet and be used for storage and his woodworking shop. He has a lot of woodworking equipment.
5. The Board found that Mr. Vandergriff testified that the pole building cannot be built farther into the rear yard due to an existing mound septic system.
6. The Board found that Mr. Vandergriff testified that he has spoken to his neighbors and they have no objection to the Application.
7. The Board found that Mr. Vandergriff testified that the pole building will match the existing dwelling.
8. The Board found that Mr. Vandergriff testified that an existing fence and landscaping create a buffer between the proposed pole building and his neighbor's property.
9. The Board found that Mr. Vandergriff testified that the pole building needs to be located near the home due to his health issues.
10. The Board found that Mr. Vandergriff testified that he purchased the Property in 2014 and constructed a sunroom and deck.
11. The Board found that Mr. Vandergriff testified that the dwelling existed at the time of purchase.
12. The Board found that Mr. Vandergriff testified that he cannot place a pole building on the Property in strict conformity with the Sussex County Zoning Code.
13. The Board found that Mr. Vandergriff testified that the difficulty was not created by him, since he did not install the existing mound septic system.
14. The Board found that Mr. Vandergriff testified that the variance will not alter the essential character of the neighborhood.
15. The Board found that Mr. Vandergriff testified that there are similar structures in the area and the area is rural in character. There are no other accessory structures in the area built in front of the dwellings. He believes that building in front of his dwelling would negatively impact the neighborhood.

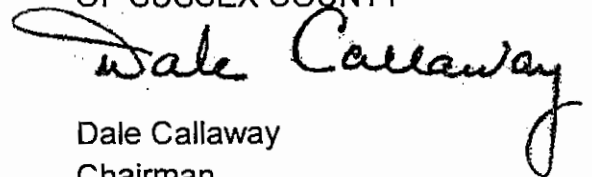
16. The Board found that Mr. Vandergrift testified that the use will not be detrimental to the public welfare.
17. The Board found that Mr. Vandergrift testified that the variance sought is the minimum variance to afford relief and the variance requested is the least modification of the regulation at issue.
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 the location of the septic mound system which is clearly evident when reviewing the survey. The mound system makes access to the rear of the Property difficult because trucks and large equipment cannot cross over the system. The unique characteristics of this Property have created an exceptional practical difficulty for the Applicant.
  - b. Due to the unique location of the septic system, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks the variance to allow for the construction of a reasonably sized pole building to be used for woodworking but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the size and location of the pole building is reasonable. The Board found that the variance is necessary to enable the reasonable use of the Property as the variance will allow the pole building to be constructed on the Property. The survey attached to the Application confirms that the pole building is reasonable in size, shape and location.
  - c. The exceptional practical difficulty was not created by the Applicant. The mound septic system is located on the Property and restricts the Applicant's ability to construct a pole building on the Property in compliance with the Sussex County Zoning Code. The mound system restricts vehicles and large equipment from accessing most of the rear yard. The Applicant did not place the septic system and only recently purchased the Property. The unique characteristics of the Property are clear when reviewing the survey.
  - 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 Applicant has discussed the pole building with his neighbors and they do not object to the Application. Furthermore, the pole building will be shielded by nearby landscaping. The Applicant testified that the proposed building will be similar to others in the neighborhood and that placement of the pole building in the front yard would be out of character with the neighborhood. The proposed pole building and its location are thus consistent with 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 Applicant has demonstrated that the variance sought will allow the pole building to be constructed in its proposed 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, and Mr. Brent Workman. Mr. Norman Rickard 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 21, 2015