

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RICHARD GRAY

(Case No. 11576)

A hearing was held after due notice on May 18, 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 variances from the rear yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of five (5) feet from the twenty (20) feet rear yard setback requirement for a proposed dwelling and a variance of two (2) feet from the ten (10) feet side yard setback requirement for a proposed dwelling. This application pertains to certain real property located south of Route 54 (Lighthouse Road) and being southwest of Cleveland Avenue, approximately 420 feet south of Lincoln Drive and more specifically Lot 42 Block 4 within Cape Windsor Subdivision (911 Address: 38774 Cleveland Avenue Ext., Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.14-51.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, and an undated survey.
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. Richard Gray, Jr., was sworn in to testify about the Application.
4. The Board found that Mr. Gray testified that the proposed dwelling will measure 32 feet by 52 feet.
5. The Board found that Mr. Gray testified that the Homeowners Association allows structures to be fifteen (15) feet from the bulkhead.
6. The Board found that Mr. Gray testified that his elderly mother will be living with him. She recently became disabled and is using a wheelchair. The additional space in front of the dwelling will provide better access for his mother into the home and the house is larger because additional space is needed within the home for his mother to move around.
7. The Board found that Mr. Gray testified that the rear yard variance will allow room for parking on the front of the Property.
8. The Board found that Mr. Gray testified that the variances are needed in order to be able to construct the house.
9. The Board found that Mr. Gray testified that the lot is undersized.
10. The Board found that Mr. Gray testified that the variances will not alter the character of the neighborhood. Most of the other properties in the neighborhood are located 15 feet from the bulkhead.
11. The Board found that Mr. Gray testified that the variances requested are the minimum variances to afford relief.
12. The Board found that Mr. Gray testified that he did not create the size of the lot.
13. The Board found that two (2) parties appeared in support of the Application.
14. The Board found that no parties appeared in opposition to the Application.
15. 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.

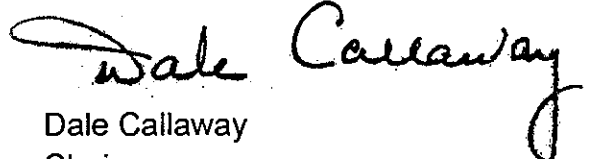
- a. The Property is unique due to its small size. The Property is narrow and is located adjacent to a lagoon. The unique characteristics of this Property limit the buildable area available to the Applicant and have created an exceptional practical difficulty for the Applicant. The uniqueness of the Property is evident when reviewing the survey submitted by 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 Applicant seeks to construct a dwelling of reasonable size but is unable to do so without violating the Sussex County Zoning Code. The small size of the lot greatly limits the building envelope from which the Applicant can place the dwelling. The Applicant is also designing the house to provide accommodations for his disabled mother and the variances are needed to allow her room to access the house and to maneuver within the house. The Board is convinced that the variances are necessary to enable the reasonable use of the Property. The Board is convinced that the shape and location of the dwelling are also reasonable; which is confirmed when reviewing the survey.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unusual size of the Property. The limited building envelope of the Property has created the exceptional practical difficulty. The unique characteristics of the Property are clear when reviewing the survey. The Applicant also presented unique circumstances as his mother is disabled and needs additional room to maneuver into and around the home. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but was created by the size of the lot.
- 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 Board is convinced that the dwelling will have no effect on the character of the neighborhood. The testimony confirms that other homes are located a similar distance from the bulkhead and no evidence was presented which would indicate that the variances 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 sought will allow the proposed dwelling to be constructed and that no additional variances are being sought.

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 July 7, 2015