

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: 2 B'S INVESTMENTS, LLC

(Case No. 11611)

A hearing was held after due notice on July 20, 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 side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant is seeking a variance of 2.8 feet from the five (5) feet rear yard setback requirement and a variance of 4 feet from the five (5) feet side yard setback requirement for a proposed fire escape. This application pertains to certain real property located on the north side of Lewes Georgetown Highway (Route 9) approximately 1767 feet west of Coastal Highway (911 Address: 32413 Lewes Georgetown Highway, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-122.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, and building plans dated June 3, 2015.
2. The Board found that the Office of Planning & Zoning had not received any correspondence in support of or in opposition to the Application.
3. John Bateman and Wient Jenkins were sworn in to testify about the Application.
4. The Board found that Mr. Bateman testified that the Property has a unique shape as it is pie-shaped.
5. The Board found that Mr. Bateman testified that the Property currently has a dwelling with parking and a billboard located thereon.
6. The Board found that Mr. Bateman testified that the existing structure will remain on the Property.
7. The Board found that Mr. Bateman testified that the Fire Marshal is requiring the Applicant to place a fire escape on the existing building. The fire escape was not required at the time the building was constructed.
8. The Board found that Mr. Bateman testified that the fire escape will help protect the public welfare as it will provide safe exit from the building in the event of fire.
9. The Board found that Mr. Bateman testified that the variances are necessary to afford relief.
10. The Board found that Mr. Bateman testified that the existing building will be used for office space and storage bays.
11. The Board found that Mr. Bateman testified that the structure would otherwise comply with setback requirements if not for the fire escape.
12. The Board found that Mr. Bateman testified that there is no other place to place the fire escape and the location of the proposed fire escape is the most logical place to place it.
13. The Board found that Mr. Bateman testified that the adjacent properties are also zoned commercial.
14. The Board found that no parties appeared in support of or 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 pie shape. The unique characteristics of this Property limit the buildable area available to the Applicant and have created an exceptional practical difficulty for the Applicant who seeks to build a fire escape on the Property. The situation is also unique because the Fire Marshal is requiring that the Applicant install a fire escape even though the structure was originally constructed without one. This additional building requirement has also 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 Property has a unique shape and the buildable area thereof is limited. The structure was also built prior to the requirement that a fire escape be constructed. The Applicant is unable to place a fire escape on the Property without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow a reasonably sized fire escape to be placed on the Property. The Board is convinced that the size, shape, and location of this fire escape are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unusual shape of the Property or the requirement that a fire escape be placed thereon. The unrebutted testimony confirms that the building has been on the Property for some time and that the fire escape requirement has only recently required by the Fire Marshal. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but was created by the shape of the lot and the fire escape requirement.
- 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 fire escape will have no effect on the character of the neighborhood. Neighboring properties have already been developed commercially so the existence of the fire escape should have no effect on the development of those properties. The fire escape will allow for safe egress from the building in the event of a fire; which is a benefit to the public welfare. 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 Applicant to place a fire escape on the Property and that the fire escape will be placed in the most logical place available so as to provide safe egress from the building and to minimize the need for a variance.

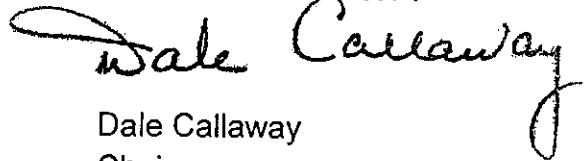
The Board granted the variance application finding that it met the standards for granting a variance.

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 September 15, 2015