

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

**IN RE: DARRELL LEWIS & BETH ANN LEWIS**

**(Case No. 11641)**

A hearing was held after due notice on September 21, 2015. The Board members present were: Mr. Dale Callaway, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the separation requirement between a residence and a poultry house.

Findings of Fact

The Board found that the Applicants are seeking a variance of 81.5 feet from the two-hundred (200) feet separation requirement between a residence and a poultry house. This application pertains to certain real property located on the west side of the Christ Church Road approximately 285 feet south of Chipmans Pond Road (911 Address: 31236 Christ Church Road, Laurel; said property being identified as Sussex County Tax Map Parcel Number 2-32-18.00-1.01.

1. The Board was given copies of the Application and a survey of the Property dated July 1, 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. Beth Ann Lewis was sworn in to testify about the Application.
4. The Board found that Ms. Lewis testified that the existing Property must be subdivided into three parcels. Her son is taking over the existing poultry farm. The existing dwelling will be separated from the existing poultry farm for her ex-husband.
5. The Board found that Ms. Lewis testified that the dwelling was built in 2002 and is only 118 feet from the nearest poultry house. The location of the dwelling at that time was to keep the dwelling further away from the road. There was no plan to divide the Property when the dwelling was built.
6. The Board found that Ms. Lewis testified that an exceptional practical difficulty exists because both structures are already in place and cannot be easily moved.
7. The Board found that Ms. Lewis testified that the current situation makes this Property unique.
8. The Board found that Ms. Lewis testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code.
9. The Board found that Ms. Lewis testified that there are other poultry farms in the area and that the poultry houses have been on the Property for many years.
10. The Board found that Ms. Lewis testified that the variance will not alter the essential character of the neighborhood.
11. The Board found that Ms. Lewis testified that the use is not detrimental to the public welfare.
12. The Board found that Ms. Lewis testified that the variance is necessary to enable reasonable use of the Property.
13. The Board found that Ms. Lewis testified that the variance is the least modification of the regulation at issue.
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 situation is unique due to the need to subdivide the Property to separate the poultry houses from the existing dwelling; both of which have been on the Property for quite some time. This unusual situation has created an exceptional practical difficulty for the Applicants who seek to reasonably subdivide the Property.
- b. Due to the uniqueness of the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The dwelling was placed on the Property on or before 2002 and the poultry houses have been in their present location for many years. The Applicants need to subdivide the Property so that the dwelling and poultry houses will be located on separate parcels but cannot do so without violating the Sussex County Zoning Code. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow the Applicants to reasonably subdivide the Property.
- c. The exceptional practical difficulty was not created by the Applicants. The dwelling was placed on the Property in 2002 and, at the time, there was no plan to subdivide the Property. A need has arisen where the poultry farm and the dwelling need to be on separate parcels but the distance between the two structures is less than allowable under the Sussex County Zoning Code. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but by the need to subdivide the Property and the inability of the Applicants to move the structures to increase the separation distance.
- 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 structures have been in their present location for many years and no complaints about their locations have been presented to the Board. The undisputed evidence confirms that the area is rural in nature and that there are other poultry houses nearby. The Applicants do not intend to change the location of the structures and the Property will continue to be owned by the Applicants' family. No evidence was presented which indicated 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 represents the least modification possible of the regulation at issue. The Applicants have demonstrated that the variance sought will allow the Applicants to subdivide the Property as proposed. No new structures or additions are being proposed which would decrease the separation distance between the dwelling and the poultry house.

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. John Mills, and Mr. Brent Workman. No Board Member voted against the Motion to Approve the Application. Mr. Jeff Hudson and Mr. Norman Rickard were not present and did not participate in the discussion or vote of this 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 November 17, 2015.