

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

**IN RE: MICHAEL HUFFER & MELISSA HUFFER**

**(Case No. 11646)**

A hearing was held after due notice on October 5, 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 front yard and side yard setback requirements.

**Findings of Fact**

The Board found that the Applicants are seeking a variance of 0.2 feet from the ten (10) feet front yard setback requirement for an existing dwelling, a variance of 2.9 feet from the ten (10) feet side yard setback requirement for an existing dwelling on the north side, and a variance of 0.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling on the south side. This application pertains to certain real property located on the northwest side of Blue Teal Road approximately 0.24 miles north of Swann Drive (911 Address: 37049 Blue Teal Road, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-434.00.

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 July 2, 2015.
2. The Board found that the Office of Planning & Zoning received had not received any correspondence in support of or in opposition to Application.
3. Melissa Huffer was sworn in to testify about the Application and Manaen Robinson, Esquire, appeared on behalf of the Applicants.
4. The Board found that Mr. Robinson stated that the Property is located in Swann Keys.
5. The Board found that Mr. Robinson stated that the Applicants purchased the Property in December 2002. The Property is under contract to be sold but a survey completed for settlement showed the encroachments.
6. The Board found that Mr. Robinson stated that the Property is very narrow as it is less than 40 feet wide. The narrowness of the Property makes it unique.
7. The Board found that Mr. Robinson stated that at the existing manufactured home has been on the lot since 1988.
8. The Board found that Mr. Robinson stated that the Applicants built an addition in 2003 and a Certificate of Compliance was issued by Sussex County in 2004 for the addition.
9. The Board found that Mr. Robinson stated that the Property cannot otherwise be developed and that the variances are necessary to enable reasonable use of the Property as the variances will allow the structures to remain in their current location.
10. The Board found that Mr. Robinson stated that the difficulty was not created by the Applicants since the Applicants did not create the size of the lot.
11. The Board found that Mr. Robinson stated that the variances will not alter the essential character of the neighborhood and the variances do not impair the uses of the neighboring and adjacent properties.
12. The Board found that Mr. Robinson stated that the variances are the minimum variances to afford relief.
13. The Board found that Ms. Huffer, under oath, affirmed the statements made by Mr. Robinson.

14. The Board found that Ms. Huffer testified that the addition was for a bathroom.
15. The Board found that Ms. Huffer testified that there have been no complaints from the neighbors.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. 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 unique size. The Property is quite small and is located adjacent to a lagoon as evidenced by the survey. The Property is particularly narrow as it is less than 40 feet wide. The unique characteristics of this Property limit the buildable area available to the Applicants and have created an exceptional practical difficulty for the Applicants who seek to retain an existing home on the lot.
  - 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 size and the buildable area thereof is limited due to its size. The Applicants seeks to retain a dwelling of reasonable size but are unable to do so 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 dwelling to remain on the Property. The dwelling has been in its current location since 1988 and an addition was built in 2003. It is unlikely that it can be moved into compliance without great expense, if at all. The Board is convinced that the size, shape, and location of this dwelling are reasonable, which is confirmed when reviewing the survey provided by the Applicants.
  - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the unusual size of the Property. Swann Keys was originally developed as a community for smaller, singlewide manufactured homes with small lot sizes. The unique lot size has resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. The unique characteristics of the Property are clear when reviewing the survey. Furthermore, the dwelling was placed on the Property by a prior owner and has been in its present location since 1988. The Applicants constructed an addition in 2003 and received a Certificate of Compliance from Sussex County. The Applicants reasonably believed that the addition was compliant with the Sussex County Zoning Code. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created the lot's unique characteristics and by the placement of the original dwelling by a prior owner.
  - 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 dwelling has been on the Property since 1988 and the addition has been on the Property since 2003. Despite the longstanding location of the dwelling, no complaints were noted in the record about the location of the dwelling. Furthermore, 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.

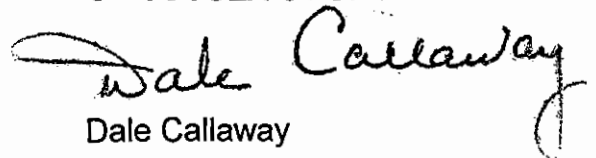
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to retain a reasonably sized dwelling on the Property. The Applicants do not intend to make any additions to the structure and only seek the variances to allow the existing structure to remain in its current 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. No Board Member voted against the Motion to approve the variance application. Mr. Norman Rickard was 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.