

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

**IN RE: STEVE MEREDITH & SUE MEREDITH**

**(Case No. 11657)**

A hearing was held after due notice on October 19, 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 a variance from the rear yard setback requirement.

Findings of Fact

The Board found that the Applicants are seeking of 2.1 feet from the ten (10) feet rear yard setback requirement for a proposed three season room. This application pertains to certain real property located on the southwest side of Riverwalk Drive approximately 1,314 feet south of Meadow Creek Drive (911 Address: 18905 Riverwalk Drive, Milton); said property being identified as Sussex County Tax Map Parcel Number 2-35-30.00-546.00.

1. The Board was given copies of the Application, two (2) letters of no objection, a portion of the tax map of the area, and a survey of the Property dated July 25, 2012.
2. The Board found that the Office of Planning & Zoning received two (2) letters in support of the Application and had not received any correspondence in opposition to the Application.
3. Pamela McDonald was sworn in to testify about the Application. Ms. McDonald submitted an exhibit for the Board to review.
4. The Board found that Ms. McDonald testified that there is an existing 10 feet by 16 feet concrete pad on the Property and the Applicants intend to enlarge the pad. The Applicants want to build a three-season room measuring 12 feet by 18 feet on the pad. The three-season room will only be one-story.
5. The Board found that Ms. McDonald testified that the irregular pie shaped lot is unique.
6. The Board found that Ms. McDonald testified that the placement of the dwelling left little room in the rear yard for development.
7. The Board found that Ms. McDonald testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code.
8. The Board found that Ms. McDonald testified that the builder of the dwelling led the Applicants to believe there was plenty of room to construct a three-season room on the Property.
9. The Board found that Ms. McDonald testified that the variance will enable reasonable use of the Property.
10. The Board found that Ms. McDonald testified that the variance will not alter the character of the neighborhood. The proposed addition is similar to others in the development.
11. The Board found that Ms. McDonald testified that a retention pond is adjacent to the rear yard.
12. The Board found that Ms. McDonald testified that the proposed addition will only be partially visible to the neighboring properties. Neighbors support the Application.
13. The Board found that Ms. McDonald testified that the use will not impair the uses of the neighboring and adjacent properties and the use will not be detrimental to the public welfare.

14. The Board found that Ms. McDonald testified that the variance requested is the minimum variance to afford relief.
15. The Board found that Ms. McDonald testified that the Applicants increased the width of the three season room rather than expanding the room deeper into the rear yard setback.
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 and shape. The Property has an irregular shape which is apparent when reviewing the survey provided by the Applicants. 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 build a three-season room 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 shape and the buildable area thereof is limited due to its size and shape. The Applicants seek to build a three-season room 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 three-season room to be constructed on the Property. The Board is convinced that the size, shape, and location of the three-season room 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 and shape of the Property. The unique lot size and shape 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. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created the lot's unique characteristics. The Applicants were also led by their builder to believe that they could build a larger three-season room on the Property. It is apparent to the Board that the Applicants reasonably relied on the representations of their builder to their detriment.
  - 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 Board is convinced that the three-season room will have no effect on the character of the neighborhood. The un rebutted evidence demonstrates that similar additions are found elsewhere in the development and that the neighbors support the Application. The rear of the Property is also adjacent to a retention pond used by the community so the impact on neighboring and adjacent properties is minimal, if any. Furthermore, 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 represents the least modification possible of the

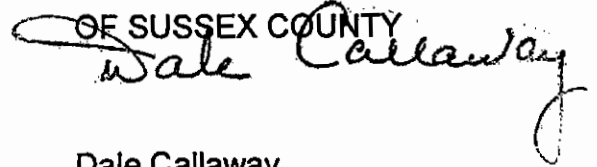
regulation at issue. The Applicants have demonstrated that the variance sought will allow the Applicants to construct a reasonably sized three-season room on the Property. The Applicants have also widened the proposed room so as to minimize its encroachment into the rear yard setback area.

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 December 15, 2015