

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: LLOYD HARRISON & JUDITH A. HARRISON

(Case No. 11671)

A hearing was held after due notice on November 16, 2015. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard 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 18.8 feet from the thirty (30) feet front yard setback requirement for an existing detached garage, a variance of 1.5 feet from the five (5) feet side yard setback requirement for an existing detached garage, a variance of 4 feet from the ten (10) feet side yard setback requirement for a proposed dwelling, and a variance of 9.7 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling. This application pertains to certain real property located between Robinsons Drive and Anna B Street approximately 302 feet east of Fisher Street (911 Address: 38254 Robinsons Drive, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-36.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, a survey of the Property dated April 3, 2000, a drawing of the Property, an email from Lloyd Harrison, and a survey dated August 28, 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. Lloyd Harrison was sworn in to testify about the Application. Mr. Harrison submitted exhibits to the Board
4. The Board found that Mr. Harrison testified that the Property is located outside of Rehoboth Beach.
5. The Board found that Mr. Harrison testified that the existing dwelling was built in the 1930s and he plans to replace the existing dwelling with a new dwelling.
6. The Board found that Mr. Harrison testified that he purchased the Property in 2000.
7. The Board found that Mr. Harrison testified that Robinsons Drive runs at an obtuse angle. The northeast corner of the proposed dwelling is closer to the street than the west side.
8. The Board found that Mr. Harrison testified that Anna B Street, which borders the rear of the Property, is a dead end street. The garage is 26.5 feet from the edge of the pavement on Anna B Street.
9. The Board found that Mr. Harrison testified that his lot is a through lot.
10. The Board found that Mr. Harrison testified that the Property is unique due to the angle of the front property line and the age of the dwelling.
11. The Board found that Mr. Harrison testified that the Property is a small, narrow lot.
12. The Board found that Mr. Harrison testified that the dwellings on the Robinsons Drive are built parallel to the side property lines and the front of the existing dwellings on Robinsons Drive align in a step fashion down the angular street.
13. The Board found that Mr. Harrison testified that the existing dwelling has a basement, which houses the furnace, hot water tank, laundry and storage area.

14. The Board found that Mr. Harrison testified that the basement creates a unique issue since very few houses have basements in that area.
15. The Board found that Mr. Harrison testified that the variances are necessary to enable reasonable use of the Property.
16. The Board found that Mr. Harrison testified that the variances will improve the safety of the dwelling and will not alter the essential character of the neighborhood.
17. The Board found that Mr. Harrison testified that the existing garage has been on the lot for many years. The garage is of masonry construction and cannot be made to conform without destroying it. There will be no changes to the existing detached garage.
18. The Board found that Mr. Harrison testified that the narrow lot and angled street were not created by the Applicants. The location of the existing dwelling and garage were also not created by the Applicants.
19. The Board found that Mr. Harrison testified that the new dwelling will blend into the character of the neighborhood.
20. The Board found that Mr. Harrison testified that the variances are the minimum variances to afford relief.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. 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 size and shape. The Property is quite small and narrow as evidenced by the survey. The portion of the lot bordering along Robinsons Drive is also unique as the eastern side of the Property is approximately 9 feet shorter than the western side of the Property. The unique size and shape of the Property has created a limited buildable area available to the Applicants and have created an exceptional practical difficulty for the Applicants who seek to replace an existing home and to retain a garage on the lot. This difficulty is further exacerbated by the fact that the Property is a through lot which further limits the building envelope.
 - 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 seeks to retain a garage and to replace 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 garage to remain and for a reasonably sized house to be constructed on the Property. The garage has been in its current location for many years. It is unlikely that the garage can be moved into compliance without great expense, if at all. The new dwelling will be in largely the same location as the current dwelling which was placed on the lot in the 1930s. The Board is convinced that the size, shape, and location of this dwelling and garage 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 have 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 garage and original dwelling were placed on the Property by a prior owner and have been in their present location for many years. 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 and garage 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 garage and dwelling have been on the Property for many years. Despite the longstanding location of the garage and dwelling, no complaints were noted in the record about the location of the garage and dwelling. The new dwelling will be similar in location to the prior dwelling and should enhance the appearance of the neighborhood. Review of the record indicates that the location of these structures is consistent with others in the neighborhood. 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 construct a reasonably sized dwelling on the Property and to retain the garage on the lot.

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 Member 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 January 5, 2016