

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

**IN RE: EDWARD OLSON**

**(Case No. 11673)**

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 a variance from the maximum square footage requirement for a garage / studio apartment.

**Findings of Fact**

The Board found that the Applicant is seeking a variance of 48 square-feet from the 800 square-foot maximum allowable square footage for a garage / studio apartment. This application pertains to certain real property located on the west side of Hopkins Road at the intersection with Park Pavillion Way (911 Address: 20396 Hopkins Road, Lewes); said property being identified as Sussex County Tax Map Parcel Number 2-34-5.00-46.03.

1. The Board was given copies of the Application and a drawing of the floor plan dated July 7, 2015.
2. The Board found that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.
3. Edward Olson was sworn in to testify about the Application.
4. The Board found that Mr. Olson testified that the special use exception for the garage / studio apartment was granted August 17, 2015.
5. The Board found that Mr. Olson testified that an existing garage was built in 1995 and is being converted into the garage / studio apartment.
6. The Board found that Mr. Olson testified that the additional square-footage is needed now due to the mechanical devices needed to make it a living space. The changes needed for the duct work created a loss in livable space.
7. The Board found that Mr. Olson testified that the 10 feet by 12 feet addition will be a kitchen.
8. The Board found that Mr. Olson testified that the entire structure meets all required setback requirement.
9. The Board found that Mr. Olson testified that the apartment will be aesthetically pleasing and his neighbors support the Application.
10. The Board found that no parties appeared in support of or in opposition to the Application.
11. 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 because the Applicant had previously received approval to convert an existing garage into a garage / studio apartment but the size of the apartment needed to be expanded to provide reasonable living space which was lost by the installation of mechanical systems in the apartment. The Board is convinced that the loss of the usable space due to the mechanical installations is a unique situation which has created an exceptional practical difficulty for the Applicant.

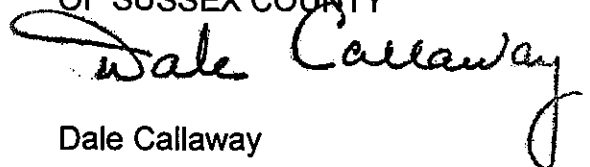
- b. Due to the uniqueness of the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to use a garage for a studio apartment but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow a reasonably sized garage apartment to be used on the Property. The Board is convinced that the size, shape, and location of the garage apartment are reasonable. The Board is also convinced that requiring the apartment to comply with the Sussex County Zoning Code would greatly limit the functionality of the living space.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not construct the garage and needs the variance to recoup living space lost by the installation of mechanical systems which service the apartment.
- 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 un rebutted testimony confirms that exterior appearance of the garage will improve and that neighbors support the application. The variance will also afford more practical living area in the apartment. Additionally, 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 Applicant has demonstrated that the variance sought will allow the garage apartment to be reasonably used and for practical living space to be provided to the occupant of the apartment while minimizing the size of the addition to the apartment.

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 January 5, 2016