

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DAVID STROLLE

(Case No. 11711)

A hearing was held after due notice on February 1, 2016. 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 rear yard setback requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of two (2) feet from the required ten (10) foot rear yard setback requirement for a proposed three season room addition. This application pertains to certain real property located on the north side of Seashore Lane, approximately 187 feet east of Sandcastle Cove (911 Address: 33123 Seashore Lane, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-34-5.00-1099.00.

1. The Board was given copies of the Application, letters of no objection, drawings of the proposed addition, and a survey of the Property dated September 15, 2010.
2. The Board found that the Office of Planning & Zoning received two (2) letters in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Pamela McDonald was sworn in to testify about the Application.
4. The Board found that Ms. McDonald testified that the Applicants retained Del Coast Design & Build to build a three season room on an existing deck. The existing deck, which was constructed by Ryan Homes in 2010, measures 10 feet by 26 feet. Ryan Homes led the Applicant to believe a three season room could be added at a later date without issue.
5. The Board found that Ms. McDonald testified that the proposed three season room will measure 15 feet by 12 feet.
6. The Board found that Ms. McDonald testified that the Property is unique due to its shallow depth.
7. The Board found that Ms. McDonald testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code. A three season room of only 10 feet deep would not afford the Applicant with enough space to reasonably use the room. There is also a fireplace hut to the rear of the dwelling which also limits the space available for the addition.
8. The Board found that Ms. McDonald testified that support walls and existing windows prevent the three season room from being built in the side yard.
9. The Board found that Ms. McDonald testified that the exceptional practical difficulty was not created by the Applicant.
10. The Board found that Ms. McDonald testified that the Applicant relied on representations by the builder that the addition could be built.
11. The Board found that Ms. McDonald testified that the addition will not alter the essential character of the neighborhood. The proposed three season room is similar to others in the neighborhood and none of the adjacent property owners object to the Application.

12. The Board found that Ms. McDonald testified that the variance requested is the least modification of the regulation at issue and the variance requested is the minimum variance to afford relief.
13. The Board found that Ms. McDonald testified that a portion of the existing deck will not be enclosed.
14. The Board found that Ms. McDonald testified that the three season room is necessary to enable reasonable use of the Property due to the Applicant's sensitivity to light and insects.
15. The Board found that no parties appeared in support of or in opposition to the Application.
16. 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 as it is small which is clearly evident when reviewing the survey provided by the Applicant. This size greatly reduces the building envelope on the Property and has created an exceptional practical difficulty for the Applicant who seeks to convert a portion of an existing deck into 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 which limits the building envelope. The Applicant seeks to construct a three season room of a reasonable size 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 three season room to be constructed on the Property. The Board is convinced that the shape and location of this addition are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unique size of the lot which has resulted in a limited building envelope on the Property. The Applicant also did not place the deck on the Property. Rather, the deck was placed on the Property by Ryan Homes and the Applicant was mistakenly led to believe by the builder that a three season room could be constructed on the deck without the need for a variance only to later find out that a variance would be necessary. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but was created by the lot's unique characteristics and by the placement of the deck thereon by the builder.
 - 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 testimony reflects that the room will be similar to others in the neighborhood and that neighbors support the Application. No complaints were noted in the record about the location of the deck and 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

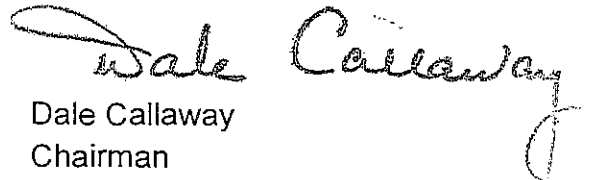
sought will allow the Applicant to construct a reasonably sized three season room on the Property. The Applicant explored building the room on the side of the house but was unable to do so due to the location of windows and support walls. The Board notes that the three season room will not extend over the full portion of the deck and that a significant portion of the open deck will remain. The Board finds that the Applicant has attempted to minimize the need for the variance and that the proposed addition is the minimum variance needed to allow the Applicant to construct a reasonably sized three season room.

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 March 22, 2016.