

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

**IN RE:           LESLIE DICK and LISA DICK**

**(Case No. 11729)**

A hearing was held after due notice on March 7, 2016. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the side yard setback requirement (Section 115-25C of the Sussex County Zoning Ordinance).

Findings of Fact

The Board found that the Applicant is seeking a variance from the side yard setback requirement on a parcel of land zoned AR-1 Agricultural Residential. The property is identified as Sussex County Tax Map and Parcel Number 1-33 20.00 17.04, with a 911 address of 29819 Lewis Road, Millsboro, Delaware.

After the hearing, the Board made the following finding of fact:

1. The Board was given copies of the Application and a portion of the tax map of the area.
2. Janelle Cornwell, of Sussex County, described the case and stated that the Office of Planning and Zoning has no letters concerning the Application.
3. Leslie Dick was sworn in and testified about the request for a variance of 12.7 feet from the 15 foot side yard setback.
4. The Board found that Leslie Dick testified that the applicants are seeking to expand an existing detached garage to store a motorhome that was recently purchased, as well as an enclosed trailer.
5. The Board found that Leslie Dick testified that there is an existing line of trees between the proposed addition and the property boundary.
6. The Board found that Leslie Dick testified that there is an existing well and fencing that prevent the addition from being built on the opposite side of the garage.
7. The Board found that Leslie Dick testified about difficulties maneuvering the motorhome between the existing dwelling and the existing detached garage.
8. The Board found that Leslie Dick testified that it is his belief that the existing fence and garage create a uniqueness to the property.
9. The Board found that Leslie Dick testified that it is his belief that the variance is appropriate because the difficulty was not created by him and he needs proper shelter for his motorhome.
10. The Board found that Leslie Dick testified that it is his belief that the variance will not alter the essential character of the neighborhood or be detrimental to the public welfare.
11. The Board found that Leslie Dick testified that it is his belief that the variance is the minimum to affect relief.
12. The Board found that Leslie Dick testified that he has lived on the subject property since 1994.
13. The Board found that Leslie Dick testified that he was not aware that he could build another separate, detached and legally conforming garage elsewhere on the property without the need for any variances.
14. The Board found that Peter Deklerow was sworn in and testified in opposition to the variance application.
15. The Board found that Mr. Deklerow testified that he is the neighbor on the adjacent property affected by the variance.
16. The Board found that Mr. Deklerow testified that the proposed addition with the variance will destroy the existing trees and their root systems, which the applicant has already shaved along the property line.
17. The Board found that Mr. Deklerow testified that once the trees are destroyed, he would be stuck with a building 2.3 feet from his property line.
18. The Board found that Jeannette Taylor was sworn in and testified in opposition to the variance application.

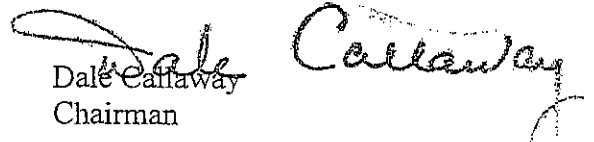
19. The Board found that Jeannette Taylor testified that she lives two doors down from the subject property, and she is also concerned that the existing trees will be destroyed.
20. The Board found that Jeannette Taylor testified that the trees which will be destroyed serve as a wind block and provide privacy.
21. The Board found that no parties appeared in support of the Application.
22. Based on the findings above and the testimony and evidence presented during the Public Hearing and contained in the Public Record, the Board determined that the Variance Application should be denied. The findings below further support the Board's decision to deny the Variance Application:
  - a. The need for the variance has been created by the Applicant, since the property can be used and developed in strict conformity with the Sussex County Zoning Code.
  - b. The only reason for the variance is the Applicant's desire to create storage space for vehicles.
  - c. The Applicant can still construct a garage elsewhere on the property that is legally conforming and which does not require any variances.
  - d. There was testimony in the record that the variance would adversely affect the neighborhood, by destroying existing trees that create privacy and by allowing a structure 2.3 feet from the property line.
  - e. There is nothing unique about this property. There are no physical conditions, circumstances, or topographical issues that are unique that justify the variance.

Based on the foregoing, the Board denied the variance from the side yard setback requirement pursuant to Section 115-25C of the Sussex County Zoning Code.

Decision of the Board

Upon motion duly made and seconded, the variance from the side yard setback requirement pursuant to Section 115-25C was denied. The Board Members in favor of the denial were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. Norman Rickard and Mr. Brent Workman.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

Date May 17, 2016