

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MICHAEL HEALY AND BETTY HEALY

(Case No. 11730)

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 front and side yard setbacks (Section 115-42B and 115-185F of the Sussex County Zoning Ordinance).

Findings of Fact

The Board found that the Applicant is seeking a variance from setbacks on a parcel of land zoned GR General Residential. The property is identified as Sussex County Tax Map and Parcel Number 2-35 26.00 59.03, with a 911 address of 18186 Hudson Road, Milton, Delaware.

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

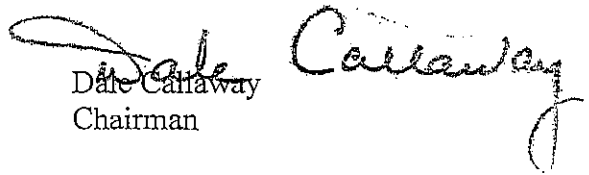
1. The Board was given copies of the Application and a portion of the tax map of the area.
2. Janelle Cornwell, of Sussex County, described the case and stated that the Office of Planning and Zoning has not received any correspondence concerning the Application.
3. The Board found that Michael Healy was sworn in and testified that he is seeking a variance from yard setbacks.
4. The Board found that Michael Healy testified that he is seeking a variance of 7.7 feet from the 40 foot front yard setback and a variance of 1.1 feet from the 5 foot side yard setback for an existing detached carport.
5. The Board found that Michael Healy testified that he purchased the property in 2002, and that the carport existed at that time, having been constructed in 1992.
6. The Board found that Michael Healy testified that a Certificate of Occupancy was issued for the carport in 1992.
7. The Board found that Michael Healy testified that he only recently learned of the existing encroachment when a survey was prepared for the combination of two parcels.
8. The Board found that Michael Healy testified that the need for the variance and the exceptional practical difficulty was not created by the Applicants.
9. The Board found that Michael Healy testified that the variances for the existing structure will not alter the character of the neighborhood.
10. The Board found that Michael Healy testified that the variances are the minimum necessary to afford relief.
11. The Board found that Michael Healy testified that the existing development and use of the property cannot occur without the variances for the existing structure.
12. The Board found that Michael Healy testified that the existing carport cannot be brought into compliance without destroying it.
13. The Board found that no parties appeared in support of or in opposition to the Application.
14. 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 Variances from the front and side yard setbacks should be granted. The findings below further support the Board's decision to grant the Variance Application:
 - a. The proposed variances are for an existing structure on the premises. There will be no visible change to the exterior.
 - b. The issuance of a Certificate of Compliance for the subject property in 1992 made this property unique.
 - c. The combination of two parcels into one make the subject property unique.
 - d. The variances are necessary to enable the reasonable use of the Property.
 - e. The exceptional practical difficulty was not created by the Applicant.

Based on the foregoing, the Board approved the variances from the front and side yard setbacks pursuant to Section 115-42B and 115-185F of the Sussex County Zoning Code.

Decision of the Board

Upon motion duly made and seconded, the variances from the front and side yard setbacks pursuant to Section 115-42B and 115-185F of the Sussex County Zoning Code was approved. The Board Members in favor of the approval were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. Norman Rickard and Mr. Brent Workman.

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 May 17, 2016.