

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ALICE VIDELOCK & MICHAEL VIDELOCK

(Case No. 11761)

A hearing was held after due notice on May 2, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the side yard setback requirement.

Findings of Fact

The Board found that the Applicants are seeking a variance of 9.3 feet from the fifteen (15) feet side yard setback requirement on the north side for an existing dwelling and a variance of five (5) feet from the five (5) feet side yard setback requirement on the north side for an existing set of steps. This application pertains to certain real property located on the northwest side of Miller Street approximately 951 feet northeast of Mount Joy Road (911 Address: 26296 Miller Street, Millsboro); said property being identified as Sussex County Tax Map Parcel Number 2-34-21.00-175.00.

1. The Board was given copies of the Application, tax assessment records, a portion of the tax map, and a survey of the Property dated April 27, 2015.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Michael Videlock was sworn in to testify about the Application.
4. The Board found that Mr. Videlock testified that the Property was foreclosed on and he purchased the Property in 2015.
5. The Board found that Mr. Videlock testified that the dwelling was built too close to the property line but a Certificate of Compliance was issued for the dwelling. A previous owner built the dwelling. The previous owner also owned the adjacent Lot B-9.
6. The Board found that Mr. Videlock testified that the Property cannot otherwise be developed and the steps are necessary to access the dwelling.
7. The Board found that Mr. Videlock testified that the difficulty was not created by the Applicants.
8. The Board found that Mr. Videlock testified that the variances do not alter the character of the neighborhood.
9. The Board found that Mr. Videlock testified that the Applicants intend to fix up the dwelling and the Property. The Applicants are making no additions to the dwelling.
10. The Board found that Mr. Videlock testified that the variances requested are the minimum variances to afford relief.
11. The Board found that Mr. Videlock testified that the septic system is in the rear of the Property. He had the well for the Property relocated since it was on an adjacent lot.
12. The Board found that no parties appeared in support of or in opposition to the Application.
13. 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 unrebutted, 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.

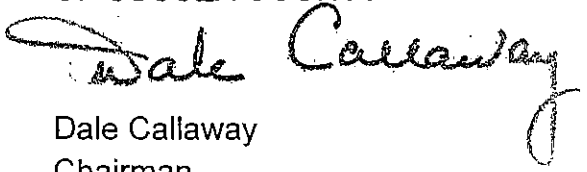
- a. The situation is clearly unique as a dwelling and steps were constructed on the lot by a prior owner and a Certificate of Compliance was issued by Sussex County. The Applicants purchased the Property through a foreclosure sale. The dwelling is on a block foundation and the steps are needed to access the dwelling. This situation is unique and has created an exceptional practical difficulty for the Applicants.
- b. Due to the uniqueness of the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The dwelling was constructed on a block foundation many years ago by a prior owner and a Certificate of Compliance was issued. The Applicants, who recently purchased the Property, seek to retain the existing dwelling and steps on the same footprint 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 the dwelling and steps to remain on the Property. The Board is convinced that the shape and location of the dwelling and steps are reasonable, which is confirmed when reviewing the survey provided by the Applicant. The Board notes that the steps are necessary for safe access to the dwelling.
- c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not place the dwelling or steps on the Property. In fact, the Applicants only recently acquired the Property and learned that a Certificate of Compliance was issued for those structures. These unique conditions have created the exceptional practical difficulty for the Applicant.
- 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 and steps will have no effect on the character of the neighborhood. The dwelling and steps have been on the Property for many years without recorded complaints and the footprint of the dwelling and steps will not change. Despite the longstanding location of the dwelling and steps, no complaints were noted in the record about its location. 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 retain the existing dwelling and steps on the lot. No additions to these structures are proposed.

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, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application. Mr. Norman Rickard did not participate in the vote or discussion of this 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 June 21, 2016