

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

**IN RE: EUGENE GRECO & JOANNE GRECO**

**(Case No. 11967)**

A hearing was held after due notice on June 5, 2017. The Board members present were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the front yard setback requirement for a through lot.

Findings of Fact

The Board found that the Applicants are seeking a of 25.1 feet from the forty (40) feet front yard setback requirement on a through lot along Beaver Dam Road for an existing shed. This application pertains to certain real property located on the west side of Ridge Court approximately 164 feet north of Oakcrest Drive (911 Address: 30807 Ridge Court, Lewes); said property being identified as Sussex County Tax Map Parcel Number 2-34-6.00-554.00.

1. The Board was given copies of the Application, a survey dated October 13, 2016, a portion of the tax map, an aerial photograph of the Property, and pictures of the Property and neighboring lots.
2. The Board found that the Office of Planning & Zoning received one (1) letter in support of the Application with four supporters and no correspondence in opposition to the Application.
3. The Board found that Eugene Greco was sworn in to testify about the Application.
4. The Board found that Mr. Greco testified that the Property has two front yards with Beaver Dam Road located to the rear of the dwelling.
5. The Board found that Mr. Greco testified that, per the community's restrictive covenants, the shed cannot be placed in the front or side yard.
6. The Board found that Mr. Greco testified that the shed cannot be placed to meet both the 40 feet setback requirement and the restrictive covenants.
7. The Board found that Mr. Greco testified that these conditions existed at the time he purchased the Property in 2009 but he was unaware of the setback requirements.
8. The Board found that Mr. Greco testified that there are only ten properties in the development which are through lots and four of those lots have been granted variances.
9. The Board found that Mr. Greco testified that his neighbors do not object to the variance request.
10. The Board found that Mr. Greco testified that there are large trees located to the rear of the dwelling along Beaver Dam Road.
11. The Board found that Mr. Greco testified that there are four other sheds which are closer to Beaver Dam Road.
12. The Board found that Mr. Greco testified that the shed cannot be moved into compliance with the Sussex County Zoning Code while still complying with the restrictive covenants.
13. The Board found that Mr. Greco testified that there is approximately forty (40) feet from the edge of paving of Beaver Dam Road to the shed. There is no access from the Property to Beaver Dam Road.
14. The Board found that no parties appeared in support of or in opposition to the Application.

15. 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 a lot with road frontages on two roads and the lot is not particularly large. These conditions greatly restrict the building envelope on the Property. While the Property is considered a through lot, the Applicants do not have direct access to Beaver Dam Road and only access the Property from Ridge Court. The Property is further constrained by the restrictive covenants in the development which limit the placement of sheds to the side or rear of the dwelling. It is clear to the Board that the lot's unique characteristics and the restrictive covenants have created an exceptional practical difficulty for the Applicants who seek to retain an existing shed 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 is bordered on two sides by roads and has unique setback requirements even though the Applicants can only access the Property from one of those roads. The Applicants seek to retain an existing shed of reasonable size 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 Applicants to retain an existing shed on the Property. The Board is convinced that the shape and location of the shed are also reasonable, which is confirmed when reviewing the survey provided by the Applicants. The Board notes that the Applicants are also constrained in the placement options for the shed due to homeowner association requirements.
  - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the shape and size of the lot or enact the setback requirements which have limited the building envelope of the lot. The Applicants did not create the homeowner association restrictions which further limit the building envelope. The unique characteristics of the Property are clear when reviewing the survey. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created the lot's unique characteristics.
  - 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 shed will have no effect on the character of the neighborhood. The shed has been on the Property for four years yet no complaints were noted in the record about its location. Rather, the Board received a letter of support signed by neighbors who supported the Application. From the pictures provided by the Applicants, the shed appears to be in good condition and is consistent with other sheds in the neighborhood. Furthermore, 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. The Board also notes that the shed will be approximately 40 feet from the edge of paving of Beaver Dam Road.
  - 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 Applicants have demonstrated that the variance sought will allow the Applicants to retain an existing shed on the Property.

No additions to the shed are being proposed. The Board also notes that the shed could not be moved further into compliance due to the existing trees on the Property and the restrictive covenants which limit its placement.

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, Ms. Ellen Magee, 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 August 8, 2017.