

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BRUCE L. REED

(Case No. 11991)

A hearing was held after due notice on July 24, 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 3.0 feet from the fifteen (15) feet side yard setback requirement on the east side for a proposed addition. This application pertains to certain real property located at the north side of Staytonville Road (Road 224) approximately 1,250 feet west of Blacksmith Shop Road (Route 44) (911 Address: 13881 Staytonville Road, Greenwood); said property being identified as Sussex County Tax Map Parcel Number 1-30-11.00-1.03.

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated June 9, 2017, and a portion of the tax map.
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 Bruce Reed was sworn in to testify about the Application.
4. The Board found that Mr. Reed testified that the Property is triangularly shaped and the shape of the Property has made it difficult for him to develop Property.
5. The Board found that Mr. Reed testified that he proposes to construct an addition to his garage. The addition will measure 20 feet wide and will be used to house his truck.
6. The Board found that Mr. Reed testified that he cannot place the addition elsewhere due to the location of the septic system and dwelling and the Delaware Department of Natural Resources and Environmental Control ("DNREC") determined where the septic system must be located.
7. The Board found that Mr. Reed testified that the surrounding area is zoned Agricultural Residential and neighboring lots have similar structures. The neighboring property to the east is used as a residence.
8. The Board found that Mr. Reed testified that the septic system is located in the front of the dwelling and the well is located in the rear of the existing garage.
9. The Board found that Mr. Reed testified that his neighbors have no objection to the Application.
10. The Board found that Mr. Reed testified that he could not redesign the garage to fit on the Property. The garage is a concrete block structure.
11. The Board found that no parties appeared in support of or in opposition to the Application.
12. 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 clearly unique as it is a triangularly shaped lot with an odd building envelope. While the lot has a long front yard, the angle of the rear property line is sharp and greatly limits the building envelope of the

Property. The building envelope is further limited by a tax ditch right-of-way and by the location of a well and septic system. These unique physical conditions have created an unusual and limited building envelope for the Applicant and have created an exceptional practical difficulty for the Applicant.

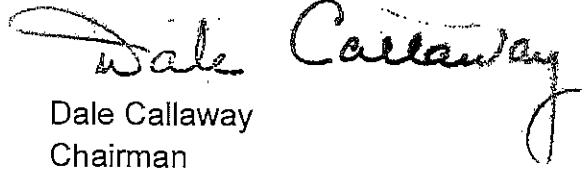
- b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The unique shape of the Property and the location of the tax ditch, well, and septic system greatly limit the building envelope. The Applicant seeks to construct an addition to his concrete block garage but is unable to do so without violating the Sussex County Zoning Code. The addition cannot be constructed elsewhere on the lot. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow the addition 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 Property has an unusual shape and is subject to building limitations due to the tax ditch, well, and septic system. The Board notes that DNREC determined where the septic system could be placed and that restricted the Applicant's development of the Property. These conditions have greatly constrained the building envelope on the Property and these unique physical conditions have created the exceptional practical difficulty for the Applicant.
- 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 unrebutted testimony confirms that the addition to the garage is similar to other structures on neighboring properties. The Applicant testified that his neighbors, including his neighbors to the east, do not object to the Application. No complaints were noted in the record about the proposed addition. 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.
- 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 make a reasonable addition to the existing garage. The Board is convinced that the Applicant has explored other options for the placement of the addition but he cannot place the addition elsewhere due to the lot's unique conditions.

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 September 19, 2017