

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KENNETH J. GLICK

(Case No. 12161)

A hearing was held after due notice on June 18, 2018. The Board members present were: Mr. Dale Callaway, Mr. Bruce Mears, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the minimum lot depth requirement and the minimum lot size requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 11.35 feet from the 100 feet lot depth requirement for proposed Lot 2, a variance of 10,464 square feet from the 32,670 feet minimum lot size requirement for proposed Lot 2, and a variance of 4,000 square feet from the 32,670 feet minimum lot size requirement for proposed Lot 1. This application pertains to certain real property located on the northwest corner of Greely Avenue and 3rd Street. (911 Address: 18799 Greely Avenue, Lincoln); said property being identified as Sussex County Tax Map Parcel Number 2-30-6.17-53.00 & 2-30-6.17-54.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, an aerial photograph of the Property, and a Lot Line Adjustment Survey Plan dated April 11, 2018.
2. The Board found that the Property consists of two existing lots and the Applicant seeks to adjust the lot lines for those two parcels. The adjustment will result in Lot 1, which will front on Greely Avenue, and Lot 2, which will front on Small Avenue.
3. The Board found that the Office of Planning & Zoning received no correspondence in support of the Application or in opposition to the Application.
4. The Board found that Ken Glick was sworn in to testify about the Application. Mr. Glick submitted an exhibit to the Board for its review.
5. The Board found that Mr. Glick testified that he purchased the Property in its existing condition. The Property consists of 2 lots and a dwelling. The lot line between the two existing parcels, however, runs through the existing dwelling. He now seeks to create 2 similarly sized lots where the house will be a separate lot.
6. The Board found that Mr. Glick testified that the new lots will conform with neighboring lots and that there are different lot sizes in the neighborhood; including smaller lots nearby. He believes that the variances will not alter the essential character of the neighborhood.
7. The Board found that Mr. Glick testified that the Property is unique in that it consists of two separate lots with a property line going through the house.
8. The Board found that Mr. Glick testified that he plans to place a small dwelling on Lot 2. He installed a new septic system on Lot 1 and he can place a standard septic system on Lot 2.
9. The Board found that Mr. Glick testified that the variances are necessary to enable reasonable use of the Property.
10. The Board found that Mr. Glick testified that the exceptional practical difficulty was not created by the Applicant because he did not create the lot lines.
11. The Board found that Mr. Glick testified that the variances requested are the minimum variances needed to afford relief.
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 finds credible, persuasive, and un rebutted, 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 consists of 2 parcels; one of which is an exceptionally small corner lot. The Property is also unique because it is developed by a dwelling which is located on the property line separating those 2 parcels. The dwelling is approximately 100 years old and predates the enactment of the Sussex County Zoning Code. The Applicant seeks approval to adjust the lot lines so that the existing dwelling and its related structures can remain on one parcel and the vacant portion of the Property adjacent to Small Avenue can be a separate parcel. The Property has a unique history and development and this history and development has created an exceptional practical difficulty for the Applicant.
 - b. Due to the Property's unique conditions, the Property's boundaries cannot be adjusted in strict conformity with the Sussex County Zoning Code. The Property already consists of 2 parcels and the Applicant seeks to adjust those lot lines such that the existing dwelling can remain solely on one parcel. The existing dwelling, however, is located on a property line thereby making a lot line adjustment necessary but the Applicant is unable to adjust the lot lines without violating the Sussex County Zoning Code. The Board is convinced that the proposed development of the Property is reasonable and that the variances requested are necessary to enable the reasonable use of the Property as the variances will allow the Applicant to reasonably develop the Property. The survey attached to the Application confirms that the development is reasonable.
 - c. The exceptional practical difficulty was not created by the Applicant. The Property has an unusual development and history. The Property consists of 2 parcels and is developed by a non-conforming dwelling. The property line for the 2 parcels runs through the dwelling. The unique characteristics of the Property are clear when reviewing the survey. These conditions predated the Applicant's acquisition of the Property and the Applicant simply seeks to adjust the lot lines such that the dwelling is no longer on the lot line. The Board is convinced that these unique conditions have created an 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 Property already consists of 2 lots and no additional lots will be created. Rather, the lot lines will be readjusted. The readjusted lot lines will create 2 lots which are similar in size rather than a larger lot and one smaller lot – as is currently the case. While variances are necessary to adjust the lot lines, the evidence is clear that there is a variety of lot sizes in the area and the proposed lots created by this subdivision are not unusual for the neighborhood. 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 Applicant has demonstrated the variances will allow the lot lines to be readjusted such that the existing dwelling will no longer be split among 2 parcels. The Board notes that no additional lots are being created.

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. Bruce Mears, Mr. John Mills, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Mills
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date September 11, 2018.