

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DAVID SEIDL (Case No. 11007)

A hearing was held after due notice on July 16, 2012. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance of the side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 10 feet from the required 10 foot side yard setback requirement for a proposed addition and a proposed deck. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Route 1 (Coastal Highway) south of York Beach Road, being Lot 37 within King's Grant Condominium; said property being identified as Sussex County Tax Map Parcel Number 1-34-22.00-5.00. After a hearing, the Board made the following findings of fact:

1. David Seidl appeared, testified, and presented the Application to the Board.
2. The Board found that the Applicant testified that the Applicant was approved for a variance in 2002.
3. The Board found that the Applicant testified that in 2004 his child became ill and is permanently disabled.
4. The Board found that the Applicant testified that his child needs a wheelchair to navigate through his home and that the dwelling consists of three (3) floors.
5. The Board found that the Applicant testified that an elevator is needed to accommodate his son's needs.
6. The Board found that the Applicant testified that the proposed elevator will be constructed within the interior of the dwelling and will provide his son with access to all three levels of the dwelling.
7. The Board found that the Applicant testified that the placement of the elevator shaft requires the removal of a bathroom and major changes to the layout of the dwelling.
8. The Board found that the Applicant testified that the layout of the dwelling will also have to be changed to allow for wider hallways and doorways so that his son can move around the dwelling in his wheelchair.
9. The Board found that the Applicant testified that the proposed additions will recreate lost floor space due to the construction of the elevator.
10. The Board found that the Applicant testified that the proposed construction will maintain the architectural consistency within the development.
11. The Board found that the Applicant testified that the Applicant has obtained approval from the Department of Natural Resources & Environmental Control (DNREC) for the proposed addition.
12. The Board found that the Applicant testified that the dwelling will be compliant with the American with Disabilities Act.
13. The Board found that the Applicant testified that the Homeowner's Association is reviewing the proposed plan and that the Homeowner's Association is currently waiting for a change in their restrictions before approving the plan.
14. The Board found that the Applicant testified that he will provide the Planning & Zoning Office with a copy of his DNREC approval.
15. The Board found that the Applicant testified that he is aware of the Fair Housing Act and will seek that avenue if necessary.

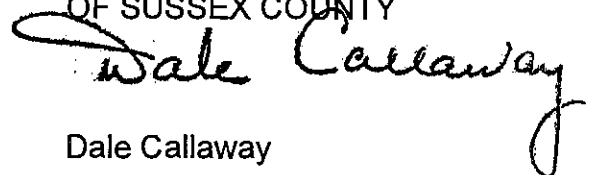
16. The Board found that the Applicant submitted schematics of the proposed addition with his Application.
17. The Board found that no parties appeared in opposition to the Application.
18. The Board found that two (2) parties appeared in support of the Application.
19. The Board found that the Planning & Zoning Office received a letter from a neighbor in opposition to the Application.
20. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Applicant's child's disability and need for the elevator creates a uniqueness. The need for the variance was not created by the Applicant. The variance is necessary to enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood and is the minimum variance to afford relief.

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 application was granted. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the 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 7, 2012