

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JAMES MARTIN, JR., and DARLENE MARTIN

(Case No. 11161)

A hearing was held after due notice on February 18, 2013. 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 from the rear yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 1 foot from the 20 feet rear yard setback requirement for a proposed screen porch. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Road 58B (Bayville Road) east of Oliver Drive, being Lot Th-33 within Bayview Landing development; said property being identified as Sussex County Tax Map Parcel Number 5-33-13.00-53.00. After a hearing, the Board made the following findings of fact:

1. James Martin and John Nuttle were sworn in to testify on behalf of the Application.
2. The Board found that Mr. Martin testified that the Applicants propose to build a screen porch on the rear of their dwelling.
3. The Board found that Mr. Martin testified that the building restriction line creates a shallow rear yard.
4. The Board found that Mr. Martin testified that the difficulty was not created by the Applicants.
5. The Board found that Mr. Martin testified that the building line was set by the builder.
6. The Board found that Mr. Martin testified that the proposed porch looks like other porches in the neighborhood.
7. The Board found that Mr. Martin testified that the Applicants need the variance to allow for a railing on the steps to the porch.
8. The Board found that Mr. Martin testified that the variance will not alter the character of the neighborhood.
9. The Board found that Mr. Martin testified that the Homeowners Association supports the Application.
10. The Board found that Mr. Nuttle testified that the handrail actually creates the encroachment and that the warranty will be compromised on the handrail by the manufacturer if it is altered in anyway.
11. The Board found that Mr. Martin testified that the handrail is important for his safety concerns for his family and that not having the railing would create a hardship.
12. The Board found that Mr. Martin submitted exhibits in support of the Application to the Board.
13. The Board found that one (1) party appeared in support of the Application.
14. The Board found that no parties appeared in opposition to the Application.
15. 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 Property is unique due to the limited space on the lot. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants. The variance will not

alter the essential character of the neighborhood. The variance is not detrimental to the public welfare. The variance sought is the minimum variance necessary to afford relief

The Board approved 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 approved. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion to Approve 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 March 19, 2013