

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

**IN RE: LOUIS R. RAKUS & NANCY S. RAKUS**

**(Case No. 11176)**

A hearing was held after due notice on March 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of 4.9 feet from the 10 feet side yard setback requirement for a proposed elevator. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located east of Route 1 (Coastal Highway) east of Andrew Street, being Lot 4, within Bay View Park development; said property being identified as Sussex County Tax Map Parcel Number 1-34-20.11-46.00. After a hearing, the Board made the following findings of fact:

1. Louis Rakus was sworn in to testify on behalf of the Application.
2. The Board found that Mr. Rakus testified that he purchased the Property in 1995 and that he has had three (3) back surgeries and one (1) neck surgery since purchasing the Property.
3. The Board found that Mr. Rakus testified that the elevator is necessary to enable reasonable use of the Property because the living area is on the top floor and the dwelling is built on stilts.
4. The Board found that Mr. Rakus testified that he has difficulty navigating steps as he falls easily.
5. The Board found that Mr. Rakus testified that the Bayview Homeowners Association does not object to the elevator.
6. The Board found that Mr. Rakus testified that the elevator cannot be constructed within the interior of the dwelling as the proposed location is the only option.
7. The Board found that Mr. Rakus testified that the Property is unique since the dwelling already exists.
8. The Board found that Mr. Rakus testified that the elevator cannot be built in strict conformity with the zoning code.
9. The Board found that Mr. Rakus testified that the difficulty was not created by the Applicants.
10. The Board found that Mr. Rakus testified that the variance will not alter the essential character of the neighborhood as there are other dwellings in the neighborhood with external elevators.
11. The Board found that Mr. Rakus testified that this variance request is the least modification possible of the regulation at issue and that this variance is the minimum variance to afford relief.
12. The Board found that the Office of Planning & Zoning received a letter in support of the Application.
13. The Board found that no parties appeared in support of or opposition to the Application.
14. 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 and the Applicant's situation is also unique. The variance is necessary to enable reasonable use of

the Property because the Applicant cannot build an elevator in the dwelling. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Ordinance. The variance will not alter the essential character of the neighborhood as there are other external elevators in the neighborhood. The variance sought is the minimum variance 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 April 16, 2013