

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: STEVEN ROYER & KAREN ROYER

(Case No. 11209)

A hearing was held after due notice on May 20, 2013. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, 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 five (5) feet from the twenty (20) feet rear yard setback requirement for a proposed second floor deck. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Route 54 (Lighthouse Road) west of Grant Avenue, being Lot 37 within Cape Windsor Subdivision; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.18-41.00. After a hearing, the Board made the following findings of fact:

1. Karen Royer was sworn in to testify about the Application.
2. The Board found that Ms. Royer testified that the Applicants own property in Cape Windsor subdivision.
3. The Board found that Ms. Royer testified that the Applicants plan to replace an existing cantilevered deck.
4. The Board found that Ms. Royer submitted exhibits for the Board to review.
5. The Board found that Ms. Royer testified that the Homeowners Association approves of the variance application.
6. The Board found that Ms. Royer testified that the proposed deck will be attached with a ledger board to be supported by columns to the deck below.
7. The Board found that Ms. Royer testified that the existing deck is causing water damage to the existing dwelling and that the existing deck is deteriorating.
8. The Board found that Ms. Royer testified that the proposed deck will help eliminate the damage and will be a more secure structure.
9. The Board found that Ms. Royer testified that the Property is an undersized shallow lot.
10. The Board found that Ms. Royer testified that the Property is unique in size.
11. The Board found that Ms. Royer testified that that the Applicants purchased the Property with the existing dwelling in place.
12. The Board found that Ms. Royer testified that the proposed deck cannot be built in strict conformity with the Sussex County Zoning Code.
13. The Board found that Ms. Royer testified that the variance is necessary to enable reasonable use of the Property.
14. The Board found that Ms. Royer testified that the Applicants did not create the difficulty.
15. The Board found that Ms. Royer testified that the variance is consistent with the character of the neighborhood.
16. The Board found that Ms. Royer testified that the variance will not be detrimental to the public welfare.
17. The Board found that Ms. Royer testified that the variance is the least possible modification of the regulation at issue and that the variance is the minimum variance to afford relief.

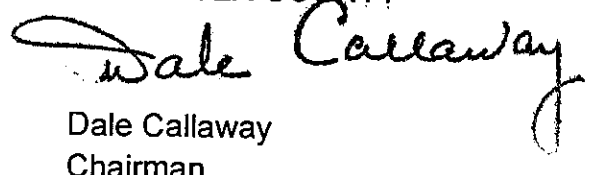
18. The Board found that Ms. Royer testified that the proposed deck will be less intrusive to the dwelling than a cantilevered deck.
19. The Board found that Ms. Royer testified that, if the deck was created on the same footprint of the existing deck, it would render the deck below unusable because of the location of the supports.
20. The Board found that Ms. Royer testified that the second floor deck will be the same size of the first floor deck.
21. The Board found that Ms. Royer testified that they will not expand the second floor bedroom.
22. The Board found that Ms. Royer testified that they want to make the deck safer and more usable.
23. The Board found that no parties appeared in support of or in opposition to the Application.
24. 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 for the following reasons. The Property is unique. The situation with the cantilevered deck is unique. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants as the Applicants did not build the original deck. The variance will not alter the essential character of the neighborhood. 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, 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 June 18, 2013