

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GREGORY RYAN & ALBERTA CAPRIA-RYAN

(Case No. 11253)

A hearing was held after due notice on August 19, 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 requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of two (2) feet from the fifteen (15) feet side yard setback requirement for an existing attached garage. The Applicants have requested that the aforementioned requested variance be granted as it pertains to certain real property east of Route 5, west of Rivers Edge Road, 300 feet north of Shore Court, being Lot 71 Phase 2 within Stonewater Creek development; said property being identified as Sussex County Tax Map Parcel Number 2-34-17.00-428.00. After a hearing, the Board made the following findings of fact:

1. Gregory Ryan and Alberta Capria-Ryan were sworn in to testify on behalf of the Application.
2. The Board found that Mr. Ryan testified that the Applicants purchased the Property in July 2013 and that the previous owners built the attached garage in May 2008.
3. The Board found that Mr. Ryan testified that a Certificate of Compliance was issued in August 2008.
4. The Board found that Mr. Ryan testified that the lot is unique in shape since it is narrower at the rear property line than at the front property line.
5. The Board found that Mr. Ryan testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code.
6. The Board found that Mr. Ryan testified that the difficulty was not created by the Applicants.
7. The Board found that Mr. Ryan testified that it would be an extreme economic hardship to bring the structure into compliance.
8. The Board found that Mr. Ryan testified that the variance does not alter the character of the neighborhood.
9. The Board found that Mr. Ryan testified that the survey in June 2013 showed the encroachment.
10. The Board found that Mr. Ryan testified that the front of the garage is in compliance with the setback requirements.
11. The Board found that Mr. Ryan testified that the gradual angle of the Property creates the encroachment.
12. The Board found that Mr. Ryan testified that the variance requested is the minimum variance to afford relief.
13. The Board found that Mr. Ryan testified that the variance will not be detrimental to the public welfare.
14. The Board found that two (2) parties appeared in support of the Application.
15. The Board found that no parties appeared in opposition to the Application.
16. 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 its wedge shape and the location of a thirty (30) feet utility easement. The difficulty was not

created by the Applicants. The variance is necessary to enable reasonable use of the Property. The variance will not alter the essential character of 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 October 8, 2013.