

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

**IN RE: FAITH R. GOLDSTEIN**

**(Case No. 11450)**

A hearing was held after due notice on September 22, 2014. 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 variances from the side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 0.2 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 5.6 feet from the ten (10) feet side yard setback requirement for a proposed elevator, a variance of 0.3 feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a variance of 5.7 feet from the ten (10) feet rear yard setback requirement for a proposed elevator and deck. This application pertains to certain real property located east of Route One (Coastal Highway) and being south of Bay Road 180 feet west of Ocean Road and being Lot 2 (Unit 2) Tween The Waters II Condominium in Tower Shores Subdivision; said property being identified as Sussex County Tax Map Parcel Number 1-34-5.00-95.00-Unit 2. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters regarding to the Application.
2. Faith Goldstein and Robert Kunitz were sworn in to testify about the Application.
3. The Board found that Ms. Goldstein testified that the existing dwelling is a duplex with three (3) flights of stairs.
4. The Board found that Ms. Goldstein testified that her granddaughter needs the elevator to be able to access the dwelling independently.
5. The Board found that Ms. Goldstein testified that the interior of the house will be renovated to accommodate her granddaughter.
6. The Board found that Ms. Goldstein testified that she has tried other alternatives to the elevator including the installation of four (4) chair lifts but her granddaughter cannot use them without assistance to get in and out of her wheelchair.
7. The Board found that Ms. Goldstein testified that the proposed addition and elevator will give her granddaughter suitable living space now that she is older.
8. The Board found that Ms. Goldstein testified that the third floor of the dwelling is the main living area.
9. The Board found that Ms. Goldstein testified that her neighbors support the Application.
10. The Board found that Ms. Goldstein testified that the small footprint of the existing dwelling makes the Property unique and that the Property cannot be developed in strict conformity with the Sussex County Zoning Code.
11. The Board found that Ms. Goldstein testified that she did not create the hardship and that the variances are necessary to enable reasonable use of the Property.
12. The Board found that Ms. Goldstein testified that the dwelling is very narrow.
13. The Board found that Ms. Goldstein testified that the variances requested are the minimum variances necessary to afford relief.

14. The Board found that Mr. Kunitz testified that the addition to the dwelling will not be closer to the rear property line than as is shown on the survey.
15. The Board found that Ms. Goldstein testified that she was not the first owner of the dwelling and that the dwelling has been on the Property since 1982.
16. The Board found that Ms. Goldstein testified that there have been no additions to the dwelling since she purchased it.
17. The Board found that Mr. Kunitz testified that the dwelling has not moved or been expanded.
18. The Board found that one (1) party appeared in support of the Application.
19. The Board found that no parties appeared in opposition to the Application.
20. Based on the findings above and the testimony and exhibits 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 narrowness and the narrowness of the dwelling located thereon. Unique circumstances also exist as there is a need for an elevator due to the medical condition of the Applicant's granddaughter who cannot climb stairs. The variances are necessary to enable reasonable use of the Property. The variances will allow the existing dwelling to remain in its current location and will allow for a reasonable expansion thereof so that the Applicant's granddaughter can better access all floors of the dwelling. The main living area of the dwelling is located on the third floor so access to the upper floors is important. The hardship and the exceptional practical difficulty were not created by the Applicant. The dwelling was placed on the Property by a prior owner and the narrowness of the dwelling makes it difficult to renovate the unit to accommodate the Applicant's granddaughter without a variance. The Applicant has testified that alternatives to the elevator were attempted, including a chair lift, but the results were not satisfactory. The variances will not alter the essential character of the neighborhood. Neighbors have also expressed to Applicant support of the Application. The variances sought are the minimum variances necessary 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 variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance 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 November 18, 2014