

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BROOKS SINGER and NATALIE SINICROPE

(Case No. 11472)

A hearing was held after due notice on October 20, 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 Applicants were seeking a variance of eight (8) feet from the ten (10) feet side yard setback requirement for a proposed screen porch on an existing patio and a variance of 0.3 feet from the five (5) feet rear yard setback requirement for an existing shed. This application pertains to certain real property located northeast of Route One (Coastal Highway) and being southeast of Anna B Street, 100 feet southwest of Fisher Street and being Lot 20 Block E within Dodd's Addition Subdivision (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-56.00-Unit 1). After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received one (1) letter regarding the Application.
2. Brooks Singer was sworn in to testify about the Application.
3. The Board found that Mr. Singer testified that he plans to screen in the existing concrete patio.
4. The Board found that Mr. Singer testified that the existing dwelling was built in 1948 and the existing structure is non-conforming.
5. The Board found that Mr. Singer testified that he purchased the Property in 2010 as it exists.
6. The Board found that Mr. Singer testified that the Property is unique since the development is non-conforming with many non-conforming lots.
7. The Board found that Mr. Singer testified that the existing cement patio is approximately three (3) to four (4) feet high on the side of the house.
8. The Board found that Mr. Singer testified that the patio has a steep drop and is dangerous to children and pets.
9. The Board found that Mr. Singer testified that the patio is sixteen (16) feet long by eight (8) feet wide.
10. The Board found that Mr. Singer testified that the variance is necessary to enable reasonable use of the Property.
11. The Board found that Mr. Singer testified that the neighbors' dwelling is 2.5 feet from the property line.
12. The Board found that Mr. Singer testified that the variance will not alter the essential character of the neighborhood and the variance will not impair the uses of neighboring properties.
13. The Board found that Mr. Singer testified that the porch will enhance privacy and will not be detrimental to the public welfare.
14. The Board found that Mr. Singer testified that his neighbors support the Application.
15. The Board found that Mr. Singer testified that the variance represents the least modification possible of the regulation at issue.

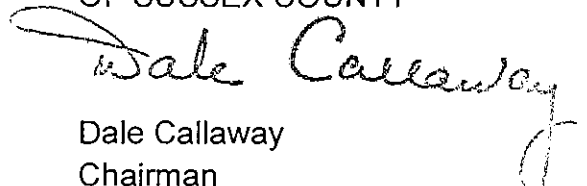
16. The Board found that Mr. Singer testified that the proposed screen porch will not extend further than the existing patio.
17. The Board found that Mr. Singer testified that the existing dwelling is a two (2) story duplex and he owns the first floor.
18. The Board found that Mr. Singer testified that the owner of the second floor has a similar screen porch and has no objection to the Application.
19. The Board found that Mr. Singer testified that he will move the existing shed into compliance so no variance is needed for the shed.
20. The Board found that Mr. Singer submitted pictures for the Board to review.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. 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 because it was developed prior to the enactment of the Sussex County Zoning Code. The variance for the proposed porch is necessary to enable reasonable use of the Property. The existing patio is raised several feet and is dangerous due to its steep drop off. The variance for the proposed porch will enable the Applicants to reasonably use that space. The exceptional practical difficulty and hardship were not created by the Applicants. The Property was developed by a prior owner. The variance for the proposed porch will not alter the essential character of the neighborhood. There are other similar porches in the neighborhood. The variance for the proposed porch sought is the minimum variance necessary to afford relief. The variance for the proposed porch represents the least modification of the regulation at issue.
23. The Board found that the variance from the rear yard setback for the shed was not necessary to enable reasonable use of the Property since the Applicant can and will move the shed into compliance with the Sussex County Zoning Code. As such the variance request for the rear yard setback was denied.

The Board granted the variance application for the side yard variance only finding that it met the standards for granting a variance. The variance application for the rear yard variance was denied because it failed to meet the standards for granting a variance.

#### Decision of the Board

Upon motion duly made and seconded, the variance application was approved in part and denied in part. The Board Members in favor of the Motion to approve the side yard variance and to deny the rear yard variance 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 side yard variance and to deny the rear yard variance.

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 December 16, 2014