

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

**IN RE: RMG INVESTMENTS, LLC**

**(Case No. 11531)**

A hearing was held after due notice on February 16, 2015. 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 variances from the rear yard and corner front yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 4.5 feet from the ten (10) feet rear yard setback requirement and a variance of 9.1 feet from the fifteen (15) feet corner front yard setback requirement for a proposed screen porch and second floor deck. This application pertains to certain real property located north of South Carolina Avenue east of Bunting Avenue and being Unit 2 within the South Carolina Place Condominium (911 Address: None Available); said property being identified as Sussex County Tax Map Parcel Number 1-34-23.16-300.00-Unit 2.

1. The Board was given copies of the Application, a portion of the tax map of the area, and a survey of the Property dated June 6, 2014.
2. The Board found that the Office of Planning & Zoning did not receive any correspondence regarding the Application.
3. David Elecko was sworn in to testify about the Application and submitted exhibits to the Board which included drawings of the proposed structure and a letter from the Delaware Department of Natural Resources and Environmental Control ("DNREC").
4. The Board found that Mr. Elecko testified that the unit (Unit 2) is part of a duplex and that the neighboring Unit 1 was granted variances in 2014 for a screen porch and open deck. Unit 1 and Unit 2 are in the same building.
5. The Board found that Mr. Elecko testified that the owner of Unit 2 wants to make the same improvements and that the proposed screen porch and deck will create a uniformed look to the duplex.
6. The Board found that Mr. Elecko testified that Unit 2 is a three story, elevated dwelling. The first elevated level would be extended four (4) feet. The deck on the second floor will be the roof of the first floor porch.
7. The Board found that Mr. Elecko testified that there will be a fire rated partition wall between Units 1 & 2.
8. The Board found that Mr. Elecko testified that the proposed structure will be cantilevered to prevent damage. The previous deck was damaged and rotted. There is no roof over the existing deck.
9. The Board found that Mr. Elecko testified that the proposed structure will not obstruct any views. Presently, the additions to Unit 1 block airflow and views from Unit 2.
10. The Board found that Mr. Elecko testified that the use will not affect the possibility of development of neighboring or adjacent properties and the variances will not alter the essential character of the neighborhood.
11. The Board found that Mr. Elecko testified that the difficulty was not created by the Applicant.
12. The Board found that Mr. Elecko testified that the variances requested represent the minimum variances to afford relief.

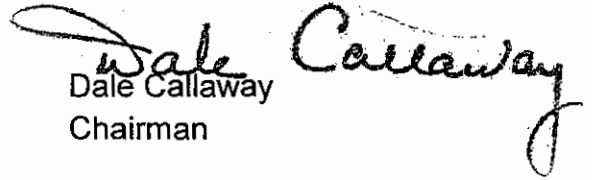
13. The Board found that no parties appeared in support of or in opposition to the Application.
14. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
  - a. The Property is unique due to the existence of a duplex and the previous variance for Unit 1 which has blocked views and airflow to the deck for Unit 2. The unique characteristics of this Property have created an exceptional practical difficulty for the Applicant.
  - b. Due to its unique conditions, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to construct a screen porch and second floor deck which is consistent with similar structures on an adjacent unit in the duplex. The Applicant cannot make these improvements without a variance and the existing construction leaves the duplex unevenly constructed. The Board is convinced that the proposed improvements are reasonable and that the variances are necessary to enable the reasonable use of the Property. The survey and drawings confirm that the improvements are reasonable in size, shape, and location.
  - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not build the improvements on the adjacent unit which have blocked the Applicant's views and airflow. The proposed improvements are necessary for the Applicant to restore the views and airflow and for the Applicant to bring a uniform appearance to the duplex.
  - d. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The improvements are consistent with the improvements on the adjacent unit and the un rebutted testimony confirms that the improvements will not block any views or otherwise have a detrimental effect on neighboring properties. No evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
  - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances will allow the proposed improvements to be constructed and that no additional variance is necessary to construct these reasonable improvements.

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, 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 April 7, 2015