

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MARK RONGIONE AND DIANA RONGIONE

(Case No. 11698)

A hearing was held after due notice on January 25, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance to reduce the side yard setback requirement.

Findings of Fact

The Board found that the Applicants are seeking a variance of one (1) foot from the ten (10) feet south side yard setback requirement for a proposed screen porch, a variance of five (5) feet from the ten (10) feet north side yard setback requirement for a proposed dwelling, and a variance of 4.5 feet from the ten (10) feet south side yard setback requirement for a proposed HVAC. This application pertains to certain real property located on the northwest side of Blue Teal Road approximately 414 feet northeast of Swann Drive (911 Address: 37001 Blue Teal Road, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.20-45.00.

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 August 28, 2015.
2. The Board found that the Office of Planning & Zoning received one letter in opposition to the Application and no correspondence in support of Application.
3. The Board found that Bryan Elliot was sworn in to testify about the Application.
4. The Board found that Mr. Elliot testified that the proposed HVAC will be on the south side of the Property, which is the opposite side of the opposition's property.
5. The Board found that Mr. Elliot testified that Swann Keys was developed as a manufactured home park. The development now mainly consists of stick built dwellings and a majority of the dwellings constructed now require variances to fit on the small lots.
6. The Board found that Mr. Elliot testified that a five (5) feet side yard setback is standard throughout the development.
7. The Board found that Mr. Elliot testified that the transition from mobile homes to stick-built homes has led to an increase in property values in the community.
8. The Board found that Mr. Elliot testified that the Property is undersized which makes it unique. This lot is only forty (40) feet wide.
9. The Board found that Mr. Elliot testified that the proposed dwelling will be twenty-six (26) feet wide which is a narrow home by industry standards. A narrower dwelling is not reasonable. A twenty (20) feet wide dwelling inhibits reasonable use and would not be compliant with the Americans with Disabilities Act.
10. The Board found that Mr. Elliot testified that the proposed dwelling will not alter the essential character of the neighborhood.
11. The Board found that Mr. Elliot testified that the variances requested represent the minimum variances necessary to afford relief.
12. The Board found that Mr. Elliot testified that the exceptional practical difficulty was not created by the Applicants.
13. The Board found that Mr. Elliot testified that the proposed two-story dwelling will have four (4) bedrooms and the steps will be located at the front of the dwelling.
14. The Board found that Mr. Elliot testified that there are parking problems within Swann Keys so it is important that off-street parking be available. Parking will be located in the front yard.

15. The Board found that Mr. Elliot testified that the dwelling will not be located on pilings.
16. The Board found that Mr. Elliot testified that the Applicants would be able to build this dwelling with no variances on a 50 feet wide lot.
17. The Board found that Mr. Elliot testified that he does not believe a reasonably sized dwelling will fit on this lot.
18. The Board found that Mr. Elliot testified that the HVAC will be on a platform and the proposed dwelling will comply with the current flood zone regulations.
19. The Board found that Mr. Elliot testified that he would agree to a six (6) feet variance on the south side for the proposed dwelling, a 9.5 feet variance for the proposed HVAC on the south side of the Property, and no variance for the north side of the Property.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board determined that the application, as amended, 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 its narrow width which is evident when reviewing the survey provided by the Applicant. The narrowness of the Property limits the building envelope on the Property and has created an exceptional practical difficulty for the Applicants who seek to build a dwelling and HVAC system on the lot.
 - b. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has a unique width and the buildable area thereof is limited due to its narrowness. The Applicants seek to build a dwelling and HVAC system of a reasonable size but are unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow a reasonably sized dwelling and HVAC system to be built on the Property. The Board notes that larger dwellings are typically built and this style of home would fit on a lot that is 50 feet wide but could not fit on a 40 feet wide lot while complying with the Code. The Applicants have convinced the Board that the proposed dwelling is the minimum size to allow for reasonable access through the home via hallways and staircases. The Board is also convinced that the shape and location of this dwelling and HVAC system are reasonable, which is confirmed when reviewing the survey and pictures provided by the Applicants.
 - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the unusual width of the Property which has resulted in a limited building envelope on the Property. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created the lot's unique characteristics. The Board also notes that parking in Swann Keys is a problem so portions of the building envelope in the front yard are being used for off-street parking.
 - d. The variances 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 Board is convinced that the dwelling will have no negative effect on the character of the neighborhood. The dwelling is similar to other homes in the neighborhood and the testimony confirms that the dwelling will likely lead to an increase in property values in the neighborhood. Furthermore, no evidence was presented which convinced the Board that the dwelling

and HVAC system would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. The Board notes that a letter received in opposition to the Application referenced the noise from the HVAC system but the HVAC system will be located on the opposite side of the dwelling.

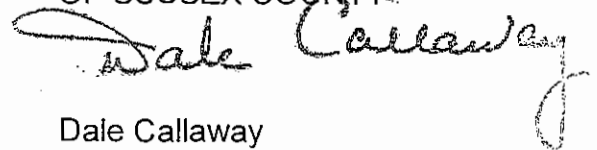
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to construct a reasonably sized dwelling and HVAC system on the Property. The Board notes that the Applicants' builder testified that other dwellings are typically wider and that it would be difficult to build a narrower home that could be reasonably used.
- f. The Board granted a six (6) feet variance from the south side setback requirement for the dwelling and a 9.5 feet variance from the required south side setback requirement for an HVAC system.

The Board granted the variance application, as amended, finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application, as amended, was approved. The Board Members in favor of the motion were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application, as amended.

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 March 22, 2016