

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOSEPH SCARPITTI

(Case No. 12018)

A hearing was held after due notice on September 11, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, 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 requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of six (6) feet from the ten (10) feet side yard setback requirement on the south side for a second-floor deck and steps, a variance of nine (9) feet from the ten (10) feet side yard setback requirement on the south side for an HVAC system, and a variance of six (6) feet from the ten (10) feet side yard setback requirement on the south side for a proposed dwelling. This application pertains to certain real property located on east side of Blue Teal Drive, approximately 1,557 feet northeast of Swann Drive (911 Address: 37062 Blue Teal Drive, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-477.01.

1. The Board was given copies of the Application, a survey of the Property dated June 30, 2017, and a portion of the tax map.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Douglas Griffin was sworn in to testify about the Application.
4. The Board found that Mr. Griffin testified that he is the Applicant's builder.
5. The Board found that Mr. Griffin testified that the Property is a narrow lot which is only 40 feet wide and is located in Swann Keys.
6. The Board found that Mr. Griffin testified that the manufactured home on the Property is 35-40 years old and has a stick-built addition. The Applicant proposes to remove the home and replace with a 26 feet wide home consisting of two (2) stories. The home will be placed on masonry block to elevate the home above flood levels.
7. The Board found that Mr. Griffin testified that most of the replacement homes built in Swann Keys over the past several years are stick-built or modular homes.
8. The Board found that Mr. Griffin testified that the Property is unique because it is narrow.
9. The Board found that Mr. Griffin testified that there are unoccupied mobile homes in the neighborhood.
10. The Board found that Mr. Griffin testified that the proposed dwelling will enhance the neighborhood.
11. The Board found that Mr. Griffin testified that the previous home measured 12 feet by 60 feet.
12. The Board found that Mr. Griffin testified that there is no on-street parking and the front portion of the building envelope will be used for parking. The streets in Swann Keys are very narrow.
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.

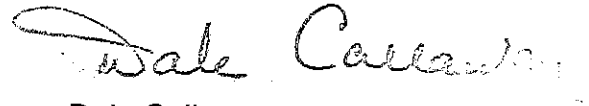
- a. The Property is clearly unique as it is a small and narrow lot. The Property was created and developed as part of a mobile home park that is now evolving into a community with stick-built and larger homes. The Property is only forty (40) feet wide and consists of only 4,092 square feet; as is clearly shown on the survey. The narrowness and size of the Property have created an exceptional practical difficulty for the Applicant. These unique physical conditions have created an unusual and limited building envelope for the Applicant. The Board also notes that the front of the Property will be used for parking and the Applicant will place the dwelling away from the front property line to provide off-street parking spaces. The parking area, however, also limits the already limited buildable area of the lot.
- b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property was created many years ago as part of a mobile home park. The Applicant seeks to place the proposed dwelling and structures on the Property but is 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 the dwelling and structures to be constructed on the Property. The Board is convinced that the size, shape, and location of these structures are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
- c. The exceptional practical difficulty was not created by the Applicant. The Property was created and developed many years ago and is a narrow and undersized lot. The Board notes that the narrowness of the lot greatly limits the building envelope. The Applicant did not create the size and shape of the lot. Rather, those conditions pre-existed the Applicant's acquisition of the Property. These unique physical conditions have resulted in a limited building envelope and have created the exceptional practical difficulty for the Applicant. The parking problem in the neighborhood has also created an exceptional practical difficulty for the Applicant because there is no on-street parking and portions of the building envelope are needed for 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 testimony confirms that the proposed dwelling will be aesthetically pleasing and will be an improvement to the Property. The Board notes that Swann Keys is evolving from a community of mobile homes to newer homes and many variances have been granted in the area. The home and structures are consistent with this evolution. Furthermore, 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 sought will allow the Applicant to construct a reasonably sized home with related structures on the lot and the home and structures will be consistent with other homes in the community.

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, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Member 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 7, 2017.