

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

**IN RE: SUZANNE RODENHEISER**

**(Case No. 12053)**

A hearing was held after due notice on November 6, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard and rear aggregate measurement and from the distance between dwellings requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 11 feet from forty (40) feet front and rear yard aggregate setback requirement and a variance of 3.4 feet from the forty (40) feet separation distance between buildings requirement to the dwelling on Unit 116. This application pertains to certain real property located on the south side of Cypress Lane, approximately 330 feet south of Oceanside Parkway (911 Address: Unknown); said property being identified as Sussex County Tax Map Parcel Number: 1-34-17.00-39.03-106.

1. The Board was given copies of the Application, pictures of the Property, an aerial photograph of the Property, a drawing of the proposed steps, a portion of the tax map of the area, and a survey of the Property dated August 29, 2017.
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 Brian Martin was sworn in to testify about the Application.
4. The Board found that Mr. Martin testified that he is the Applicant's contractor and the Applicant proposes to construct a set of steps because she is concerned about egress from the home.
5. The Board found that Mr. Martin testified that the steps would be located to the rear of the home and there is no other location where these steps could be constructed. The steps will come from the rear of the home and otherwise meet the setback requirements.
6. The Board found that Mr. Martin testified that the Applicant did not construct the deck or porch.
7. The Board found that Mr. Martin testified that there are other homes in the neighborhood with similar steps.
8. The Board found that Mr. Martin testified that there is only one way to currently access the home.
9. The Board found that Mr. Martin testified that no neighbors have objected to the requests.
10. The Board found that no parties appeared in support of or in opposition to the Application.
11. 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 its unique shape as is clearly shown on the survey. The Property is also unique in its development as the dwelling was constructed with only one access point to the home for safety reasons. The Applicant seeks to construct a set of stairs to the rear of the home but is

unable to do so because of the unique development of the Property and adjacent lots. These conditions have created a unique building envelope for the Applicant and have resulted in an exceptional practical difficulty.

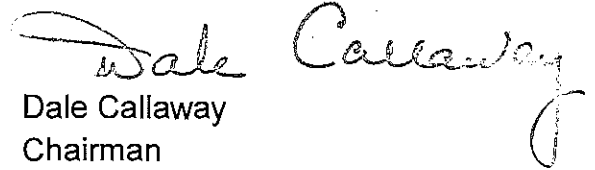
- b. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has a unique shape and the buildable area thereof is limited due to its shape and due to the development of adjacent properties. The Applicant seeks to construct a set of stairs of reasonable size 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 a reasonably sized set of stairs to be constructed on the Property. The Board is convinced that the shape and location of these steps are also reasonable, which is confirmed when reviewing the survey and pictures provided by the Applicant.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unusual shape of the Property. The unique lot shape has resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. Furthermore, the Applicant did not develop neighboring properties which also limit the building envelope. The unique characteristics of the Property are clear when reviewing the survey. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but was created the lot's unique characteristics.
- 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 steps will have no effect on the character of the neighborhood. The steps will be similar to other steps in the neighborhood and will be located a significant distance away from neighboring properties. No complaints were noted in the record about the locations of the steps. 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 second set of steps to provide safe access from the dwelling. The Board is convinced that the Applicant has explored other options for the steps and has sought to minimize the intrusion of the addition into setback areas.

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 of the motion were Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, 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 January 9, 2018.