

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FRANK COSTANGO

(Case No. 12062)

A hearing was held after due notice on December 11, 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 setback requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 4.6 feet from the thirty (30) feet front yard setback requirement and a variance of 7.6 feet from the thirty (30) feet front yard setback requirement for a proposed addition. This application pertains to certain real property located on the east side of Surrey Road approximately 200 feet south east of the intersection of West Buckingham Drive and Surrey Road (911 Address: 5 Surrey Road, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-19.00-957.00.

1. The Board was given copies of the Application, a survey of the Property dated June 2, 2016, and a portion of the tax map of the area.
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 Frank Costango was sworn in to testify about the Application and submitted pictures into the record for the Board to review.
4. The Board found that Mr. Costango testified that he seeks to add a front porch to an existing dwelling.
5. The Board found that Mr. Costango testified that the curvature of the front boundary line creates a unique situation.
6. The Board found that Mr. Costango testified that the existing home, which has been on the Property since the 1980s, takes up the majority of the building envelope.
7. The Board found that Mr. Costango testified that the Applicants purchased the Property with the dwelling in its existing condition and did not place the dwelling so close to the front property line. The Applicants purchased the Property a year ago.
8. The Board found that Mr. Costango testified that the rear yard is wooded.
9. The Board found that Mr. Costango testified that the proposed addition will add charm and appeal to the home and neighborhood and the addition will improve the neighborhood. He believes that the addition will add curb appeal to the dwelling.
10. The Board found that Mr. Costango testified that the house is a brick house and has been painted and remodeled.
11. The Board found that Mr. Costango testified that the house looks out of place compared to the neighboring properties.
12. The Board found that Mr. Costango testified that the front part of the home is the primary access to the home and there is no coverage available from inclement weather over the front access.
13. The Board found that Mr. Costango testified that there is over ten (10) feet from the edge of paving of the adjacent Surrey Road to the front property line.
14. The Board found that Mr. Costango testified that the owners have discussed the addition with their neighbors and no one objected to the project. Rather, neighbors have indicated their support of the Application.
15. The Board found that Mr. Costango testified that there is a garage used for storage and it has an access to the home.

16. The Board found that Mr. Costango testified that the owners wish to have a usable deck.
17. The Board found that no parties appeared in support of or in opposition to the Application
18. 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 as it is an oddly shaped with a wide rear yard but a narrow front yard. The front yard property line is also curved and these conditions have created an unusual building envelope. The unique shape is clearly shown on the survey provided by the Applicants. These unique physical conditions have created an exceptional practical difficulty for the Applicants who seek to build a reasonably sized front porch addition and stairs to the home.
 - 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 building envelope due to its odd shape. The Applicants seek to build a front porch addition and stairs of reasonable size but are unable to do so without violating the Sussex County Zoning Code. The variances are thus necessary to enable reasonable use of the Property as the variances will allow a reasonably sized front porch addition and stairs to be constructed on the Property. The Board is convinced that the shape and location of this addition and stairs are reasonable, which is confirmed when reviewing the survey provided by the Applicants.
 - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the unique size and shape of the lot which have resulted in a limited building envelope on the Property. These conditions were created when the lot was created years ago. The Applicants also did not construct the house so close to the front of the building envelope. The Applicants only recently acquired the Property. The unique characteristics of the Property are clear from the record and the survey. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created by 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 front porch addition and stairs will have no effect on the character of the neighborhood. The schematic and photographs provided by the Applicants demonstrate that the front porch addition and stairs will have an attractive appearance and should enhance the Property. Neighbors have also indicated to the Applicants their support of the Application. Importantly, 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. The Board notes that the front property line is approximately 10 feet from the edge of paving of Surrey Road thereby making the front of the Property appear larger than it actually is. This condition should minimize the impact of the front yard encroachments.
 - e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulation at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to build a reasonably sized front

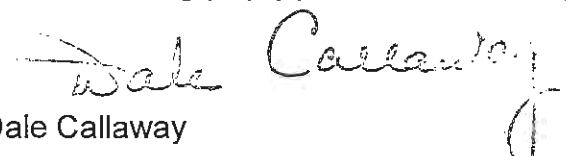
porch addition and stairs on the Property which can be reasonably used by the Applicants. The addition will provide adequate coverage during inclement weather and will provide enough space to be reasonably used the Applicants. The Board is convinced that the Applicants explored other means by which to construct the addition but were unable to otherwise construct the addition and stairs but they have taken necessary steps to reduce the size of the encroachments.

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. Bruce Mears, and Mr. Brent Workman. Ms. Ellen Magee and Mr. John Mills 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 February 6, 2018