

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ANDREW STEIMINGER

(Case No. 12096)

A hearing was held after due notice on February 5, 2018. 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 0.7 feet from the ten (10) feet side yard setback requirement on the north side for a proposed dwelling, a variance of 6 feet from the ten (10) feet side yard setback requirement on the south side for a proposed dwelling, a variance of 5.7 feet from the ten (10) feet side yard setback requirement on the north side for a proposed set of stairs, and a variance of 5.7 feet from the ten (10) feet side yard setback requirement on the north side for a proposed HVAC system.¹ This application pertains to certain real property located on the west side of Canvasback Road, approximately 1,396.25 feet north of the intersection of Swann Drive and Canvasback Road. (911 Address: 37029 Canvasback Road, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-346.00.

1. The Board was given copies of the Application, a survey of the Property dated December 22, 2017, an aerial photograph of the Property, 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 the Application and one (1) letter in opposition to the Application.
3. The Board found that Andrew Steiminger was sworn in and testified about the Application.
4. The Board found that Mr. Steiminger testified that the Property is located in Swann Keys.
5. The Board found that Mr. Steiminger testified that the Property was previously improved by a single-wide manufactured home but that home was in poor condition and has been removed. The Applicant proposes to place a double-wide manufactured home on the lot. He has already purchased the house.
6. The Board found that Mr. Steiminger testified that double-wide manufactured homes are common the neighborhood. The single-wide homes are being replaced by double-wide homes.
7. The Board found that Mr. Steiminger testified that the home will be accessed on the north side of the Property and the rear of the Property and that the steps will be 5 feet wide.
8. The Board found that Mr. Steiminger testified that there is a 4 feet tall vinyl fence along the south property line.
9. The Board found that Mr. Steiminger testified that the HVAC system will be installed and can be moved to the north side of the Property. The HVAC system will measure 5 feet wide.
10. The Board found that Mr. Steiminger testified that there is 25 feet from the edge of paving of Canvasback Road to the dwelling.
11. The Board found that Mr. Steiminger testified that parking in Swann Keys is difficult.

¹ The Board notes that the variance requests were amended at the hearing to address the proper size of the variances needed for the proposed structures and to include variances for a proposed set of stairs and HVAC system.

12. The Board found that Mr. Steiminger testified that he believed the size of the lot created an exceptional practical difficulty
13. The Board found that three (3) parties appeared in support of the Application.
14. The Board found that no parties appeared in opposition to the Application.
15. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, 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 clearly unique as it is a small and narrow lot. The Property is only forty (40) feet wide and consists of only 3,843 square feet; as is clearly shown on the survey. These unique physical conditions have created an exceptional practical difficulty for the Applicant by creating an unusual and limited building envelope for the Applicant. The Property is also unique because parking is limited in the neighborhood and a portion of the front yard will need to be used for parking thereby further limiting the building envelope.
 - 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 a double-wide manufactured home with a deck, steps, and HVAC system 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 double-wide manufactured home with a deck, steps, and HVAC system to be placed 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. Furthermore, the front of the Property is needed for parking. Ultimately, these unique physical conditions have resulted in a limited building envelope and have created the exceptional practical difficulty for the Applicant.
 - 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 double-wide manufactured home with a deck, steps, and HVAC system will be similar to other homes in the neighborhood and the Board was not convinced by the opposition that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. The Board also notes that the variance for the dwelling on the north side is less than 1 foot and the steps would be allowed to encroach up to 5 feet into the setback area but, due to the width of the home, the steps actually project 5.7 feet into the setback area. These encroachments are so small that they are unlikely to be noticed by neighbors.
 - 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 place a reasonably sized double-wide manufactured home with a deck, steps, and HVAC system on the lot and

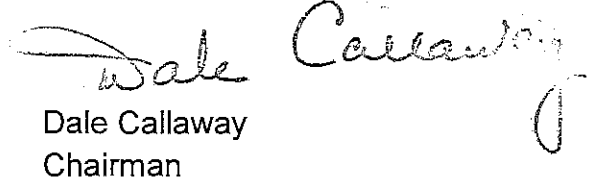
those structures are consistent with the neighborhood. The Board is convinced that the Applicant took measures to limit the encroachments into to the setback area.

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. 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 March 20, 2018