

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: RONALD WROBLEWSKI & LORI WROBLEWSKI

(Case No. 12110)

A hearing was held after due notice on March 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 Applicants are seeking a variance of 3.0 feet from the ten (10) feet side yard setback requirement on the north side for a proposed deck, a variance of 8.5 feet from the ten (10) feet side yard setback requirement on the north side for a proposed HVAC system, a variance of 4.5 feet from the ten (10) feet side yard setback requirement on the north side for a proposed dwelling, and a variance of 5.7 feet from the ten (10) feet side yard setback requirement on the south side for a proposed handicap ramp. This application pertains to certain real property located on the west side of Pintail Drive, approximately 1,070 feet north of the intersection of Pintail Drive and Swann Drive. (911 Address: 37013 Pintail Drive, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-20.00.

1. The Board was given copies of the Application, a survey of the Property dated October 6, 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 or in opposition to the Application.
3. The Board found that Ron Wroblewski, Lori Wroblewski, and Adam Rones were sworn in to testify about the Application.
4. The Board found that Mr. Wroblewski testified that the Property is unique. The community was originally developed as a mobile home park.
5. The Board found that Mr. Wroblewski testified that the ten (10) feet setback requirements create a narrow building envelope.
6. The Board found that Mr. Wroblewski testified that the Applicants have attempted to design the home to minimize the setback encroachments. The dwelling is also designed to allow for handicap accessibility. The halls and doorways are wider to accommodate a wheelchair.
7. The Board found that Mr. Wroblewski testified that the need for the variances were not created by the Applicants.
8. The Board found that Mr. Wroblewski testified that the size of the lot was created prior to the Applicants' acquisition of the Property.
9. The Board found that Mr. Wroblewski testified that the proposed dwelling will be consistent with the surrounding new construction and the neighborhood.
10. The Board found that Mr. Wroblewski testified that the variances requested are the minimum variances necessary to afford relief.
11. The Board found that Mr. Wroblewski testified that the Applicants acquired the Property in February 2017.
12. The Board found that Mr. Wroblewski testified that there is approximately 5 feet from the front property line to the edge of paving of Pintail Drive.
13. The Board found that Mr. Wroblewski testified that there will be adequate parking on the Property.

14. The Board found that Mr. Wroblewski testified that the dwelling will be a two-story home.
15. The Board found that Mr. Wroblewski testified that the HVAC system will extend 4 feet from the dwelling.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. 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 size and shape. The Property is quite small and narrow as evidenced by the survey. The Property is only 49.83 feet wide by 88.74 feet deep and consists of 5,482 square feet. The unique characteristics of this Property limit the buildable area available to the Applicants and have created an exceptional practical difficulty for the Applicants who seeks to construct a home with an HVAC system, deck, and handicap ramp on the lot. The building envelope is further reduced due to the fact that a significant portion of the rear yard is located in a lagoon.
 - 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 size and the buildable area thereof is limited due to its size and shape. The building envelope is further reduced by the lagoon in the rear yard. The Applicants seek to construct a home with a deck, handicap ramp, and an HVAC system of 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 these structures to be constructed on the Property. The Board is convinced that the shape and location of these structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicants. The Board also notes that the dwelling is designed to provide handicap accessibility and that has resulted in a proposed handicap ramp and wider doors and hallways in the house.
 - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the unusual size and shape of the Property. Swann Keys was originally developed as a community for smaller, singlewide manufactured homes with small lot sizes. The unique lot size has resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. The Applicants only recently acquired the Property. 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 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 structures will have no effect on the character of the neighborhood. The structures are similar to other homes in the neighborhood and no evidence was presented that the variances would somehow alter the essential character of the neighborhood.
 - 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 these reasonably

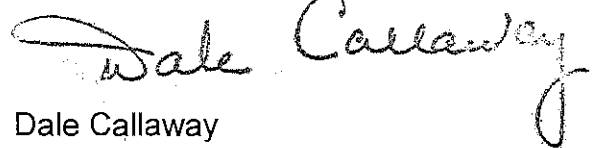
sized handicap-accessible structures on the Property. The Board is convinced that the Applicants tried to fit the structures within the building envelope but were constrained by the narrow width of the Property and the small size of the lot. The Applicants were also further constrained by the lagoon in the rear of the lot.

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 two (2) years from the date below the application becomes void.

Date May 8, 2018