

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY  
IN RE: MICHAEL J. GALASSO**

**(Case No. 12152)**

A hearing was held after due notice on June 4, 2018. The Board members present were: Mr. Dale Callaway, Mr. Bruce Mears, Ms. Ellen Magee, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the front yard setback requirement for a proposed structure.

Findings of Fact

The Board found that the Applicant is seeking a variance of 7.1 feet from the thirty (30) feet front yard setback requirement for a proposed porch. This application pertains to certain real property located on the west side of Maplewood Drive, approximately 500 feet south of Pinewood Road. (911 Address: 14 Maplewood Drive, Lewes); said property being identified as Sussex County Tax Map Parcel Number 2-34-11.00-325.00.

1. The Board was given copies of the Application, drawings of the porch, a survey of the Property dated December 29, 2014, a letter from the Lochwood Property Owners Association Architectural Review Committee, an aerial photograph of the Property, a building permit application, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.
3. The Board found that Michael Galasso and Terry Lane were sworn in to testify about the Application.
4. The Board found that Mr. Lane, a representative from Diamond State Contractors, testified that the Applicant purchased the Property 2 years ago.
5. The Board found that Mr. Lane testified that the front of the existing dwelling is 30.9 feet from the front property line and approximately 34.9 feet from the edge of paving of Maplewood Drive. The Applicant proposes to construct a covered porch measuring 20 feet by 8 feet. The porch will be added to the front of the dwelling.
6. The Board found that Mr. Lane testified that neighbors have similar porches and the addition will be consistent with the neighborhood. He also believes that the addition will add value to the Property.
7. The Board found that Mr. Lane testified that the previous owner placed the home within one foot of the setback line thereby leaving no room for future additions. As such, there is no room for a future covered porch.
8. The Board found that Mr. Lane testified that the Property cannot otherwise be developed.
9. The Board found that Mr. Lane testified that there is a difference between the front property line and the edge of paving of Maplewood Drive actual front property line and this gap makes it appear as though the porch is set back farther from the property line.
10. The Board found that Mr. Lane testified that the exceptional practical difficulty is not being created by the Applicant because the Applicant did not build the dwelling so close to the front property line.
11. The Board found that Mr. Lane testified that the porch will not alter the essential character of the neighborhood as there are other homes in this development with similar porches which are also close to the road and are similarly situated.
12. The Board found that Mr. Lane testified that the Applicant has minimized the need for the variance by keeping the porch narrow, yet presentable and suitable. The

staircase has been designed to the side in order to minimize the variance as much as possible as well.

13. The Board found that Mr. Lane testified that a porch less than eight (8) feet wide would not be usable.
14. The Board found that Mr. Galasso testified that the dwelling was built in 2001.
15. The Board found that no parties appeared in support of or in opposition to the Application.
16. 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 unrebutted, 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 developed by an existing dwelling, which was placed on the Property by a prior owner, and the dwelling is located near the front property setback line. The dwelling has no front porch area and the Applicant, who recently purchased the Property, seeks to make an addition to the front of the home for a porch. Due to the location of the existing home, the Applicant is unable to construct a reasonably sized porch without a variance. The unique development of the Property has thus created an exceptional practical difficulty for the Applicant.
  - b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to construct a small, covered porch adjacent to the existing dwelling but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow a reasonably sized porch to be constructed on the Property. The porch will be consistent with other porches in the neighborhood. The Board is convinced that the shape and location of the porch are also reasonable, which is confirmed when reviewing the survey provided by the Applicant. Based on the survey, there appears no other location where the porch could be located.
  - c. The exceptional practical difficulty was not created by the Applicant. There was no evidence that the Applicant created the lot or developed it with the existing dwelling. Rather, the Property was developed by a prior owner. These conditions have created the exceptional practical difficulty for the Applicant who seeks to construct a reasonably sized porch on the lot. The location of the existing dwelling, however, constrained the porch's possible placement options.
  - d. The variance 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 porch will have no effect on the character of the neighborhood. The porch will be similar to other porches in the neighborhood. The porch will also be located approximately 26.9 feet from the edge of paving of Maplewood Drive so the encroachment into the front yard setback area will likely be difficult to notice and would not likely present visibility concerns. Furthermore, no evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
  - e. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance sought will allow the Applicant to construct a reasonably sized porch on the Property. The porch is located adjacent to the existing dwelling and there

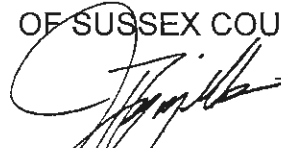
is no other place where it could reasonably be located. The Board notes that the porch is only 8 feet wide and a smaller porch would not be able to reasonably used. The Applicant is also placing the steps to the porch on the side of the porch so as to further limit the encroachment into the setback area.

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



John Mills  
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date August 7, 2018