

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: TRIPLE V VENTURES, LLC

(Case No. 12330)

A hearing was held after due notice on July 1, 2019. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the side yard setback requirement for proposed stairs.

Findings of Fact

The Board found that the Applicant is seeking a variance of 4.7 feet variance from the fifteen (15) feet side yard setback requirement on the northeast side for a proposed external staircase. This application pertains to certain real property located on the northwest side of Savannah Road approximately 875 feet south of Dove Drive (911 Address: 1519 Savannah Road, Lewes) said property being identified as Sussex County Tax Map Parcel Number 3-35-12.06-3.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a letter from the Applicant, a picture of the Property, a Fire Marshal report, a site plan of the Property dated October 8, 2018, 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 Amber Woodland, who is an owner of Triple V Ventures, LLC, was sworn in to testify about the Application.
4. The Board found that Ms. Woodland testified that the Applicant purchased the Property on April 25, 2019, and the Applicant obtained a conditional use to use the Property for a law office. The Applicant is working with agencies for approvals necessary to use the Property in this fashion. One of those agencies is the Office of the Fire Marshal which requires that a second floor fire escape be installed.
5. The Board found that Ms. Woodland testified that the rear of the home will have parking and a handicapped ramp and the location of the handicap ramp restricts the Applicant's ability to place the fire escape to the rear of the building.
6. The Board found that Ms. Woodland testified that the steps can only be placed in this location.
7. The Board found that Ms. Woodland testified that the steps will project no farther into the side yard setback area than the existing Bilco door, which has been there since the building was built in the 1930s.
8. The Board found that Ms. Woodland testified that the steps will only be used during a fire emergency and that the front of the home will remain untouched.
9. The Board found that Ms. Woodland testified that the building is far from Savannah Road and the Applicant is working with DeIDOT for approvals. According to Ms. Woodland, as part of the development process, the driveway will have to be widened.
10. The Board found that Ms. Woodland testified that the Property is serviced by well and septic.
11. The Board found that Ms. Woodland testified that the fire escape will have to be placed on the side of the home and that the Property cannot otherwise be developed with a fire escape without a variance.

12. The Board found that Ms. Woodland testified that most properties in the area are no longer used residentially.
13. The Board found that Ms. Woodland testified that the Applicant will have, at most, 3-4 employees on the second floor.
14. The Board found that Ms. Woodland testified that the exceptional practical difficulty was not created by the Applicant but was created due to the Fire Marshal requirements.
15. The Board found that Ms. Woodland testified that the fire escape will not alter the essential character of the building as it will be built to blend in with the colors of the house. There are also trees on the northeast side of the Property and, when in full bloom, the trees will block the view of the fire escape.
16. The Board found that Ms. Woodland testified that the requested variance is the minimum variance to afford relief.
17. The Board found that Shellace James was sworn in to give testimony in support of the Application.
18. The Board found that Ms. James testified that she familiar with the Property because it was previously owned by a family member and she owns neighboring property.
19. The Board found that Ms. James testified that she has no issue with the request and that there is no other place to put an outdoor staircase. She also noted that trees will block the stairs from view and that her garage is located on the southwest side of her property.
20. The Board found that one person appeared in support of and no one appeared in opposition to the Application.
21. 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 a long and narrow lot that was developed with the existing building in the 1930s prior to the enactment of the Sussex County Zoning Code. The Applicant seeks to use the building for a law office and has received a conditional use for that use but the Applicant is required to obtain agency approvals as well. One of the agencies who must give approval is the Office of the State Fire Marshal and the Fire Marshal requires that an exterior staircase be constructed to the second floor of the building. Due to the historical location of the building, the location of a handicap ramp, and the need to widen the driveway, there is no other location where an exterior staircase could be constructed. As such, the building envelope is exceptionally limited. These unique physical conditions have created an exceptional practical difficulty for the Applicant who seeks to construct an exterior staircase on the Property.
 - 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 an exterior staircase 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 set of steps 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 provided by the Applicant. The location of the steps provides the Applicant with reasonable access to the second floor of the building and are required to be placed in order to obtain Fire Marshal approval. Without the steps, the Applicant would not otherwise have the ability to use the Property for a law office.

- c. The exceptional practical difficulty was not created by the Applicant. There was no evidence that the Applicant built the building or created the unique size of the Property. The building was built in the 1930s and the Applicant only recently acquired the Property. Due to the location of the building and regulations regarding the development of the Property as a law office, there is no other location where the steps could be placed. These unique conditions have created an unusually limited building envelope. These conditions have created the exceptional practical difficulty for the Applicant who seeks to construct an exterior staircase on the lot.
- 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 steps will have no effect on the character of the neighborhood. The un rebutted evidence confirms that the steps will only be used in the event of an emergency and the steps will be located on the side of the lot where large trees largely block the steps from view. The neighbor to the northeast testified in support of the Application and noted that her garage is on that side of the lot. The Board also notes that the steps will not project farther into the setback area than the existing Bilco door which has been on the Property for many years. No evidence was presented 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 an exterior staircase which will meet the Fire Marshal requirements. The Board is convinced that the Applicant explored other options to locate the steps but were limited by the existing building and by the parking lot, driveway, and handicap ramp requirements.

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 to approve were Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY

Ellen M. Magee

Ellen M. Magee
Chair

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

Date August 20, 2019