

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: SCOTT CARPENTER & HEATHER CARPENTER**

**(Case No. 12503)**

A public hearing was held after due notice on December 14, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, and Mr. John Williamson.

Nature of the Proceedings

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

Findings of Fact

The Board found that the Applicants are requesting a variance of 11 feet from the thirty (30) feet front yard requirement for a proposed porch and steps. This application pertains to certain real located on the east side of Pebble Drive within the Sandy Beach Subdivision (911 Address: 106 Pebble Drive, Dagsboro); said property being identified as Sussex County Tax Map Parcel Number 2-33-6.00-169.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated March 23, 2016, pictures, letters of support, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received five letters in support of and no correspondence in opposition the Application.
3. The Board found that Scott Carpenter and Heather Carpenter were sworn in to give testimony about the Application.
4. The Board found that Ms. Carpenter testified that the Property is unique because it is shallow and the dwelling was placed at the front yard setback line.
5. The Board found that Ms. Carpenter testified that the Property cannot be developed for a porch and steps without the variance.
6. The Board found that Ms. Carpenter testified that the exceptional practical difficulty was not created by the Applicants as they purchased the Property with the dwelling in its existing location in 2016 and wish to improve it with a front porch and steps.
7. The Board found that Ms. Carpenter testified that the variance will not alter the essential character of the neighborhood but will enhance the appeal of the home.
8. The Board found that Ms. Carpenter testified that neighbors have submitted letters in support of the Application.
9. The Board found that Ms. Carpenter testified that placing a porch on the front of the home will help with the heat during the summer and during inclement weather.
10. The Board found that Ms. Carpenter testified that the variance requested is the minimum variance to afford relief.
11. The Board found that Mr. Carpenter testified that he was unsure of the distance from the edge of paving to the property line but estimates the gap is approximately 10 feet.
12. The Board found that Mr. Carpenter testified that the septic system takes up the rear yard and they cannot put anything in that location.
13. The Board found that two people appeared in support of and no parties appeared in opposition to the Application.
14. 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 in size, shape, and condition. While the lot is rectangular, the lot is wider than it is deep and the rear of the lot is improved by a septic system. Consequently, the house was placed closer to the front yard setback. The Applicants seek to build a porch with steps along the front of the home but are unable to do so without violating the setback requirements. The unique conditions of the Property have created a small and unusually shaped building envelope where it is more desirable to build the lot closer to the front yard than the rear yard. The septic system and the placement of the home by a prior owner have particularly restrained the Applicants. These unique characteristics of this Property limit the buildable area available to the Applicants and have created an exceptional practical difficulty and unnecessary hardship for the Applicants who seek to construct a porch and steps on the lot.
- b. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
- c. 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, shape, and condition and the buildable area thereof is limited due to these conditions. The Applicants seek to construct a porch and steps on the lot but are unable to do so without violating the Sussex County Zoning Code. The Board is convinced that a front yard variance is necessary to enable the reasonable use of the Property as the variance will allow a reasonably sized porch and steps to be constructed on the lot. The porch and steps will afford the Applicants with better and safer access to the home.
- d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicants. The Applicants did not create the unusual conditions of the Property nor did they place the house on the lot. The preexisting conditions have resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. The small building envelope was further limited by the septic system in the rear of 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 and by the development thereof by a prior owner.
- e. 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 variance will have no effect on the character of the neighborhood. The variance will allow the Applicants to construct a porch and steps which should enhance the neighborhood. There was no evidence that variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, the Board received letters of support from neighbors. Furthermore, the Board notes that there is a large gap between the edge of paving of Pebble Drive and the front property line so the front yard appears larger than it actually is.
- f. 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 Applicants have demonstrated that the variance sought will allow the Applicants to construct a porch and steps on the Property. The porch and steps will provide safe access to the home and

the Board is convinced that the Applicants took measures to limit the front yard encroachments.

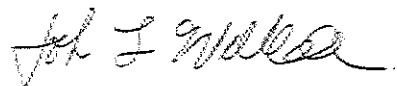
- g. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

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 Dr. Kevin Carson, Mr. Jeffrey Chorman, Ms. Ellen Magee, and Mr. John Williamson. No Board Member voted against the motion to approve Application. Mr. Brent Workman did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



John Williamson  
Acting Chair

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

Date February 15, 2021