

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: WALTER M. RYKIEL & CAROL A. RYKIEL

(Case No. 12597)

A public hearing was held after due notice on August 16, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

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 Applicants are requesting a variance of 10.8 feet from the thirty (30) feet front yard setback requirement for a proposed garage addition. This application pertains to certain real located on the east side of Bay Run within the Keenwick Sound Subdivision (911 Address: 37034 Bay Run, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-19.00-345.00. 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, photographs, letters in support of the Application, a survey of the Property dated September 9, 2003, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received two letters in support of the Application and no correspondence in opposition the Application.
3. The Board found that Walter Rykiel was sworn in to give testimony about the Application.
4. The Board found that Mr. Rykiel testified that the Property is in a quiet, residential development of 240 homes.
5. The Board found that Mr. Rykiel testified that the requested variance will not alter the essential character of the neighborhood. He believes that the garage extension will have no meaningful impact on the neighborhood.
6. The Board found that Mr. Rykiel testified that where the proposed addition is to be placed is close to the cul-de-sac which has little traffic.
7. The Board found that Mr. Rykiel testified that the adjacent neighbors have given their support.
8. The Board found that Mr. Rykiel testified that, if this variance is approved by the Board, the Applicants will also need approval from the homeowners association but he doubts it will be a problem to obtain that approval.
9. The Board found that Mr. Rykiel testified that the home is not parallel to the road.
10. The Board found that Mr. Rykiel testified that the variance is needed to make the garage usable and the existing garage is unusable but, with the extension, both cars will fit in the garage.
11. The Board found that Mr. Rykiel testified that the addition will be constructed to match the existing house and garage and the garage will have the same roofline.
12. The Board found that Mr. Rykiel testified that the existing garage is 143 inches on the south side and 171 inches on the north side.
13. The Board found that Mr. Rykiel testified that the proposed addition would be approximately 47 feet' to the edge of paving on Bay Run.
14. The Board found that Mr. Rykiel testified that he did not build the dwelling but purchased the Property with the dwelling existing.

15. The Board found that Mr. Rykiel testified that there is a bedroom to the side of the garage so the garage extension cannot be placed there.
16. The Board found that one person appeared in support of and no one appeared 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, shape, and development. The Property is improved with a dwelling and small garage and the Applicants seeks to construct a reasonable addition thereto. The lot is shaped similar to a parallelogram and is only 82 feet wide. The lot lines are angled away from the road at a severe angle as well. The Applicants are limited in their ability to develop the Property because these conditions. Moreover the addition will be used for a garage to park vehicles and the driveway is located to near the proposed garage. These unique characteristics of this Property have created a limited building envelope and have created an unnecessary hardship and exceptional practical difficulty for the Applicants who seek to place a reasonable garage addition on the site.
 - 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 unique physical characteristics and the buildable area thereof is limited due to those characteristics. The Applicants seek to place an addition to the garage on the lot but are 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 this reasonably sized garage addition to be placed the lot. The Board is convinced that the shape and location of the garage addition are also reasonable, which is confirmed when reviewing the survey provided by the Applicants. The Board notes that the addition will be used for a garage.
 - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicants. As previously stated, the Property has unique conditions and these conditions have resulted in a limited building envelope on the Property. These conditions have created the unnecessary hardship and exceptional practical difficulty. Furthermore, the Applicants are constrained by the location of the existing dwelling and driveway.
 - 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 garage addition will have no effect on the character of the neighborhood. The addition will be located near the dwelling and driveway and there was no substantial evidence that the garage addition would somehow alter the essential character of the neighborhood. The Board notes that no letters in opposition or testimony in opposition were presented to the Board. Moreover, letters of support from neighbors were submitted. The Board also notes that only a corner of the garage addition will encroach into the setback area and that the garage will be a significant distance from the edge of paving of Bay Run.
 - 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 place the reasonably sized addition on the Property. The Board is convinced that the Applicants explored other options for the size, shape, and location of the garage addition but were constrained by the conditions of the lot.

- 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, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the motion to approve the Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Williamson
Chair

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

Date October 18, 2021.