

CASE # 12585

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MR. AND MRS. DARRELL SPURLOCK

Case No. 9639 – 2006

A hearing was held after due notice on October 16, 2006. The Board members present were: Mr. Callaway, Mr. Mills, Mr. Workman and Mr. Hudson.

Nature of the Proceedings

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

Finding of Facts

The Board found that the Applicant was seeking a variance from side yard setback requirements north of Route 54, east of Blue Teal Road Lot 19, Block B, Swann Keys. The Applicant was requesting a 4 foot variance from the required 10 foot side yard setback for a proposed manufactured home. After a hearing, the Board made the following findings of fact:

1. The Applicant's lot measures just 40 feet by 100 feet and the Applicant wishes to place a new dwelling measuring 24 feet by 54 feet on the property.
2. The unit will be inline with other units on the street. It is anticipated that the air-conditioning unit will be placed on the south side of the lot, but the Applicant was uncertain at the original hearing as to the exact location.
3. As a result, the Board tabled the Application, but with the record left open in order to allow the Applicant to provide more detailed information concerning the location of the air-conditioning unit.

The Board granted the requested variance.

Decision of the Board

Upon motion duly made and seconded, the application was granted. The Board members voting in favor were: Mr. Callaway, Mr. Mills, Mr. Workman and Mr. Hudson; voting against – none.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Dale Callaway
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date December 5, 2006

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: ROLLIN BELL & LISA BELL

(Case No. 12425)

A hearing was held after due notice on March 16, 2020. 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 variances from the front yard, corner front, and side yard setback requirements for proposed and existing structures.

Findings of Fact

The Board found that the Applicants are requesting the following variances: 1) a variance of 5.34 feet from the ten (10) feet front yard setback requirement along Pierce Avenue for a proposed elevator and balcony; 2) a variance of 0.3 feet from the fifteen (15) feet corner front yard setback requirement along Beach Avenue for the existing dwelling; and 3) a variance of 0.31 feet from the ten (10) feet front yard setback requirement along Pierce Avenue for the existing dwelling. This application pertains to certain real property located on the corner of Beach Avenue and Pierce Avenue approximately 818 feet east of Coastal Highway (Route 1) (911 Address: 2 Beach Avenue, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-23.06-93.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a deed to the Property, a topographical survey dated December 2, 2019, a memorandum from DNREC with materials related to the DNREC application, drawings, a foundation plan, architectural plans, an aerial photograph of the Property, minutes of the January 4, 2006 Planning & Zoning Commission meeting, and a portion of the tax map of the area.
2. The Board notes that the Planning & Zoning Commission previously determined that the Atlantic Ocean side of the Property was considered a front yard and that the Pierce Avenue side of the Property was subject to a 10 foot setback requirement. The Pierce Avenue side of the Property is also considered a front yard. The Beach Avenue side of the Property is considered a corner front yard.
3. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
4. The Board found that Rollin Bell was sworn in to give testimony about the Application. Mackenzie Peet, Esquire, appeared on behalf of the Applicants and presented the Application.
5. The Board found that Ms. Peet stated that the shape of the lot is unique and is subject to a DNREC building line restriction. According to Ms. Peet, the DNREC building limit line affects the placement of the building and the proposed elevator.
6. The Board found that Ms. Peet stated that, due to the DNREC building regulations, there is no possibility that the dwelling can be built in strict conformity with Sussex County Code. She argued that most of the yard is unbuildable due to the DNREC restrictions.
7. The Board found that Ms. Peet stated that the dwelling was constructed by a prior owner and there is nowhere else to place the elevator.
8. The Board found that Ms. Peet stated that the exceptional practical difficulty was not caused by the Applicants but by the unique building restrictions on the lot.

9. The Board found that Ms. Peet stated that the request to build the elevator is because the Applicants wish to make access to the dwelling easier for their elderly parents to move around the house.
10. The Board found that Ms. Peet stated that the Applicants also have approval from DNREC.
11. The Board found that Ms. Peet stated that the variances will not alter the essential character of the neighborhood as there are similar houses in the neighborhood.
12. The Board found that Ms. Peet stated that the Applicants purchased the Property in 2005.
13. The Board found that Ms. Peet stated that there is no impact on visibility of adjacent roads.
14. The Board found that Ms. Peet stated that the variances requested are the minimum variances necessary to afford relief.
15. The Board found that Mr. Bell affirmed the statements made by Ms. Peet as true and correct.
16. The Board found that Mr. Bell testified that he discussed the Application with his neighbors and that there have been no complaints about the structures.
17. The Board found that no one appeared in support of or in opposition to the Application and no additional comments were submitted electronically.
18. 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 a long, narrow lot subject to significant DNREC building restrictions. The Property is adjacent to beaches of the Atlantic Ocean and much of the easterly side of the lot is undevelopable due to the DNREC building restrictions. As such, the building is pushed towards the western side of the Property adjacent to Pierce Avenue. The house which was built many years ago, slightly encroaches into that setback area. The Applicants need to construct an elevator and balcony for their elderly relatives but are unable to do so within the building envelope. The Property's unique conditions have thus created an unnecessary hardship and exceptional practical difficulty for the Applicants who seek to retain the existing dwelling on the lot and to make a reasonable addition for the elevator and balcony.
 - 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 Property and the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants seek to retain the existing dwelling on the lot and to construct the elevator and balcony but are unable to do so while complying with the Sussex County Zoning Code. The Board is thus convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow the Applicants to retain the reasonably sized dwelling and to construct the elevator and balcony on the lot. The Board is convinced that the size, shape, and location of the structures are reasonable.
 - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicants. As discussed above, the Property has unique conditions which have limited the Applicants' ability to reasonably develop the Property. The Applicants did not create the unique conditions of the lot or construct the original house. The Board was convinced that the Applicants have not created the exceptional practical difficulty and

unnecessary hardship. Furthermore, the Board is convinced that the Applicants did not come to the Property with an illegal use in mind. Rather, the Applicants are limited by the physical conditions of the Property and the prior development thereof and the Applicants need the variances in order to reasonably develop the Property as proposed and to retain the existing dwelling.

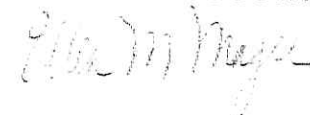
- e. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the variances will have no effect on the character of the neighborhood. The variances will allow the existing dwelling to remain in its current location. There were no complaints about the location of the structure and, since the encroachments for the existing dwelling are less than 1 foot, it is unlikely that those encroachments are even noticeable without a survey. Likewise, there was no objection to the proposed addition and no evidence was presented which demonstrate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
- f. 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 retain the existing dwelling on the Property and to build a reasonably sized elevator and balcony to accommodate elderly family members.
- 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, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the motion to approve Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

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

Date May 5, 2020

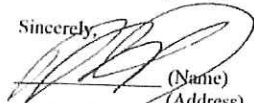
Sussex County Planning & Zoning Department
Attn: Board of Adjustment
2 The Circle (P.O. Box 417)
Georgetown, DE 19947

RE: Rollin and Lisa Bell Variance Application; 2 Beach Avenue, Rehoboth Beach, DE 19971

Dear Planning & Zoning Department and Board of Adjustment Members:

I/We, as neighbor(s) of Rollin and Lisa Bell and member(s) of the public, offer strong support for the Board of Adjustment's approval of the Applicant's request for ten (10) feet variance from the fifteen (15) feet setback to allow for proposed cantilevered balconies on the north side of the existing dwelling located at 2 Beach Avenue, Rehoboth Beach, DE 19971. I/We, as a member(s) of the public strongly support this Application and encourage your favorable consideration.

Sincerely,


(Name)
(Address)
1 BEACH AVE (Address)
NORTH INDIAN BEACH

Sussex County Planning & Zoning Department
Attn: Board of Adjustment
2 The Circle (P.O. Box 417)
Georgetown, DE 19947

RE: Rollin and Lisa Bell Variance Application; 2 Beach Avenue, Rehoboth Beach, DE 19971

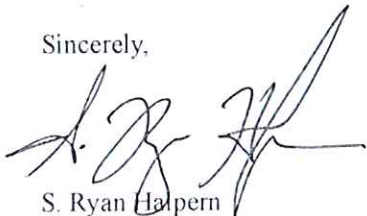
Dear Planning & Zoning Department and Board of Adjustment Members:

I/We, as neighbor of Rollin and Lisa Bell and member(s) of the public, offer strong support for the Board of Adjustment's approval of the Applicant's request for ten (10) feet variance from the fifteen (15) feet setback to allow for proposed cantilevered balconies on the north side of the existing dwelling located at 2 Beach Avenue, Rehoboth Beach, DE 19971.

During discussion of this variance request, Rollin and Lisa agreed that if the variance was granted, a modification would be added as a condition of approval that the 3rd and 4th floor balconies would extend no more than five (5) feet. The second story balcony would remain at the requested ten (10) feet variance.

Because of their willingness to modify the initial requested variance, I/We, as a member(s) of the public strongly support this Application and encourage your favorable consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Ryan Halpern', written over a light blue horizontal line.

S. Ryan Halpern
15 Beach Avenue
Dewey Beach, DE 19971

July 22, 2021

Sussex County Planning & Zoning Department
Attn: Board of Adjustment
2 The Circle (P.O. Box 417)
Georgetown, DE 19947

RE: Rollin and Lisa Bell Variance Application; 2 Beach Avenue, Rehoboth Beach, DE 19971

Dear Planning & Zoning Department and Board of Adjustment Members:

I/We, as neighbor(s) of Rollin and Lisa Bell and member(s) of the public, offer strong support for the Board of Adjustment's approval of the Applicant's request for ten (10) feet variance from the fifteen (15) feet setback to allow for proposed cantilevered balconies on the north side of the existing dwelling located at 2 Beach Avenue, Rehoboth Beach, DE 19971. I/We, as a member(s) of the public strongly support this Application and encourage your favorable consideration.

Sincerely,



Theresa B. Gergar
14 Beach Ave
Dewey Beach, DE 19971

CASE: 12590

Kevin Garber
148 Carlotta Drive
Bear, DE 19701
302-220-3561

Applicant
Exhibit

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JUL 29 2021

SUSSEX COUNTY
PLANNING & ZONING

July 22, 2021

Sussex County
County Administrative Offices
2 The Circle
P.O. Box 589
Georgetown, DE 19947

Re: Building Permit # 202007310
Parcel 533-20.18-149.00
Mr. and Mrs. William Hackett

To Whom It May Concern:

Please consider the following facts as evidence for approving installation of a handicap ramp on the house at the above location. The variance hearing is scheduled for Monday, August 2, 2021.

On the original stamped plans, that were submitted and approved by the county, included a ramp. During my framing inspection, I spoke with the inspector regarding the ramp and he stated that the ramp might be too far into the set-back. With this new information, I informed Mr. and Mrs. Hackett and they decided to just build a set of steps. Due to Mr. Hackett's declining physical health, he is no longer able to navigate steps. This is the reason that we are requesting a variance to install a ramp to enable Mr. Hackett to have the freedom to enter his home safely.

Thank you in advance, for your consideration as to the installation of a handicap ramp.

Sincerely,



Kevin Garber

July 28, 2021

HACKETT, WILLIAM E
3035 OLD COUNTY RD
NEWARK, DE 19702

Date of Birth: 08/21/1952

To whom it may concern,

Mr. William Hackett is under my care at Christiana healthcare system. He has history of degenerative arthritis, gait and balance issue, he uses wheelchair for commute. To accommodate his safety he could benefit from a wheelchair ramp as has generalized weakness postdialysis and unable to navigate the steps. Please feel free to contact me if any questions, thank you.

Best regards,
Farnaz A. Shahzad,MD,FACP

Valerie Hughes,BSN.,RN.,CCM
RN Case Manager for Primary Care MAP II
4735 Ogletown Stanton Rd Suite #1250
Newark, De 19713
Phone (302) 428-5832
Fax (302) 623-0217 (302) 623-0275

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SUSSEX COUNTY
PLANNING & ZONING

Planning and Zoning Department
Sussex County Council Chambers
County Administrative Office
2 The Circle
Georgetown, DE 19947

REF Tax Parcel 533-20.18-149.00

Dear Sirs:

My name is Carol Hackett and I reside at 38827 Wilson Ave, Selbyville, DE. I am writing this letter in regard to our request for a variance in order to build a handicap ramp at this residence.

My husband, William Hackett, is disabled. He goes to dialysis 3 times a week for 4.5 hours. This treatment makes him extremely weak. He has great difficulty in climbing stairs. He has fallen several times using the stairs. His cardiologist told him "falling is a great risk for internal bleeding due to his medications", not to mention possible other injuries.

He has many health issues and cannot walk without medical aids, such as walkers, rollator, and an electronic wheelchair/skooter. It is extremely important to build this handicap ramp. I have attached a letter from his primary doctor to verify his poor health and the need for a handicap ramp.

Thank you for your consideration in granting this variance.

Sincerely,



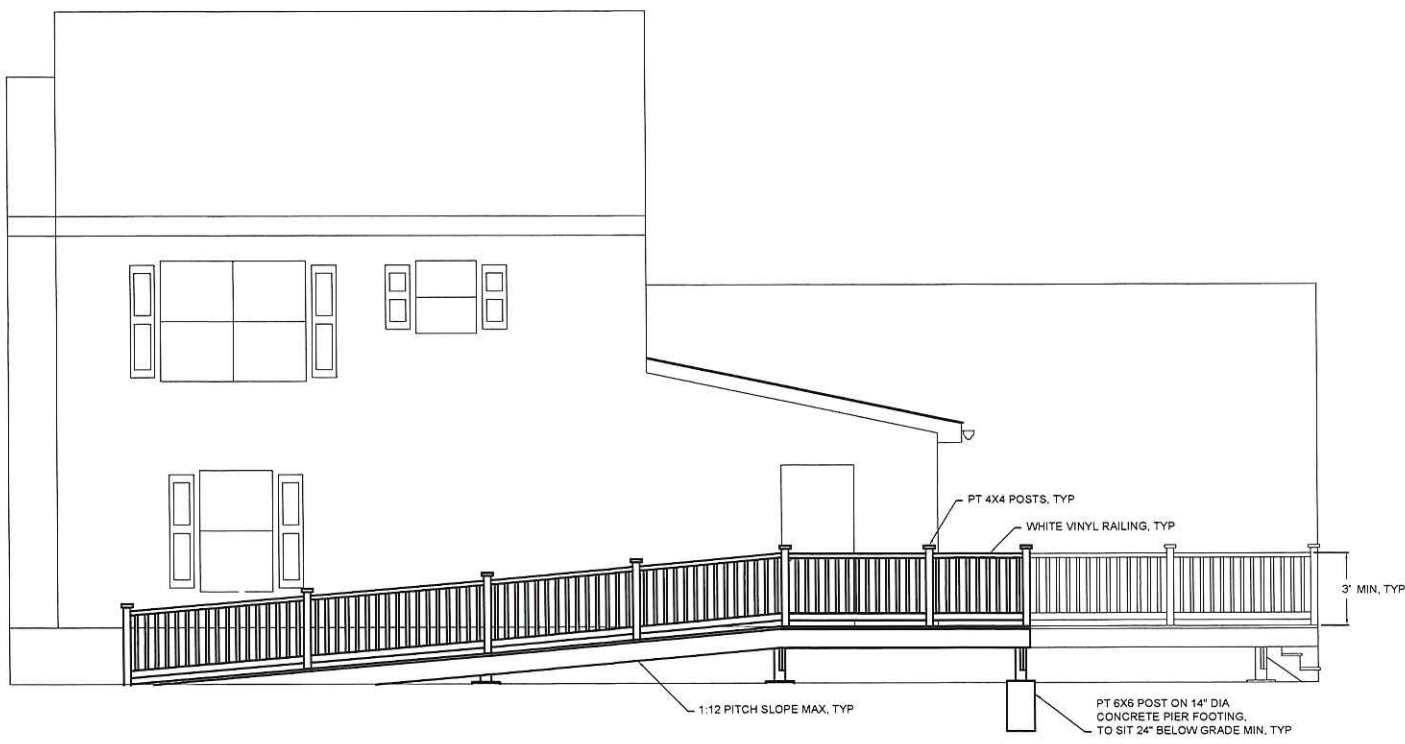
Carol Hackett

38827 Wilson Avenue

Selbyville, De 19975

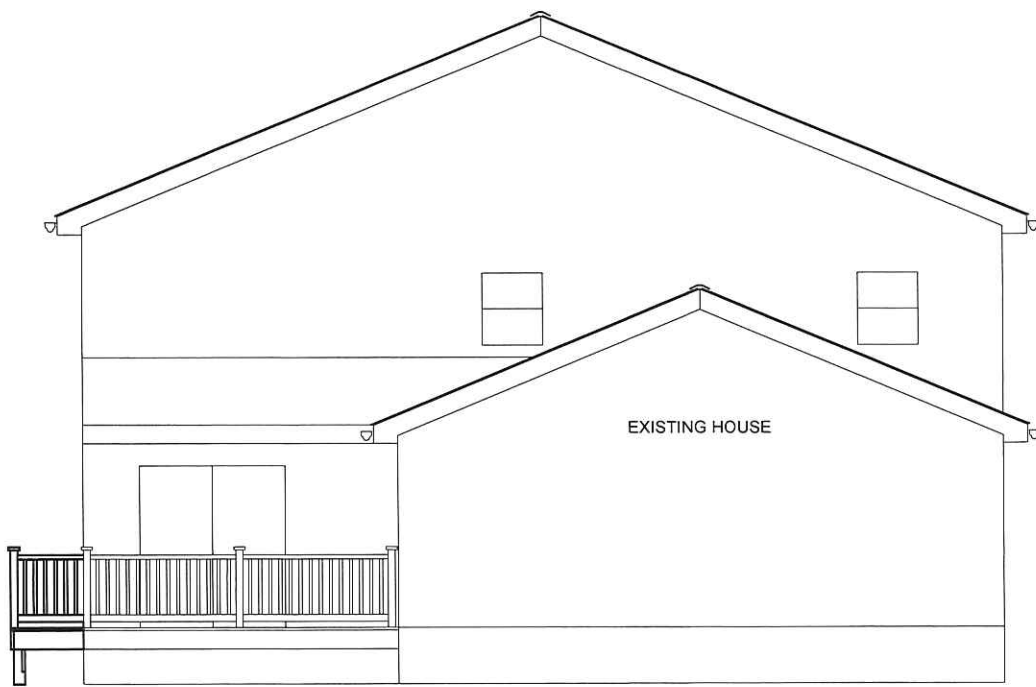
(302) 562-9372

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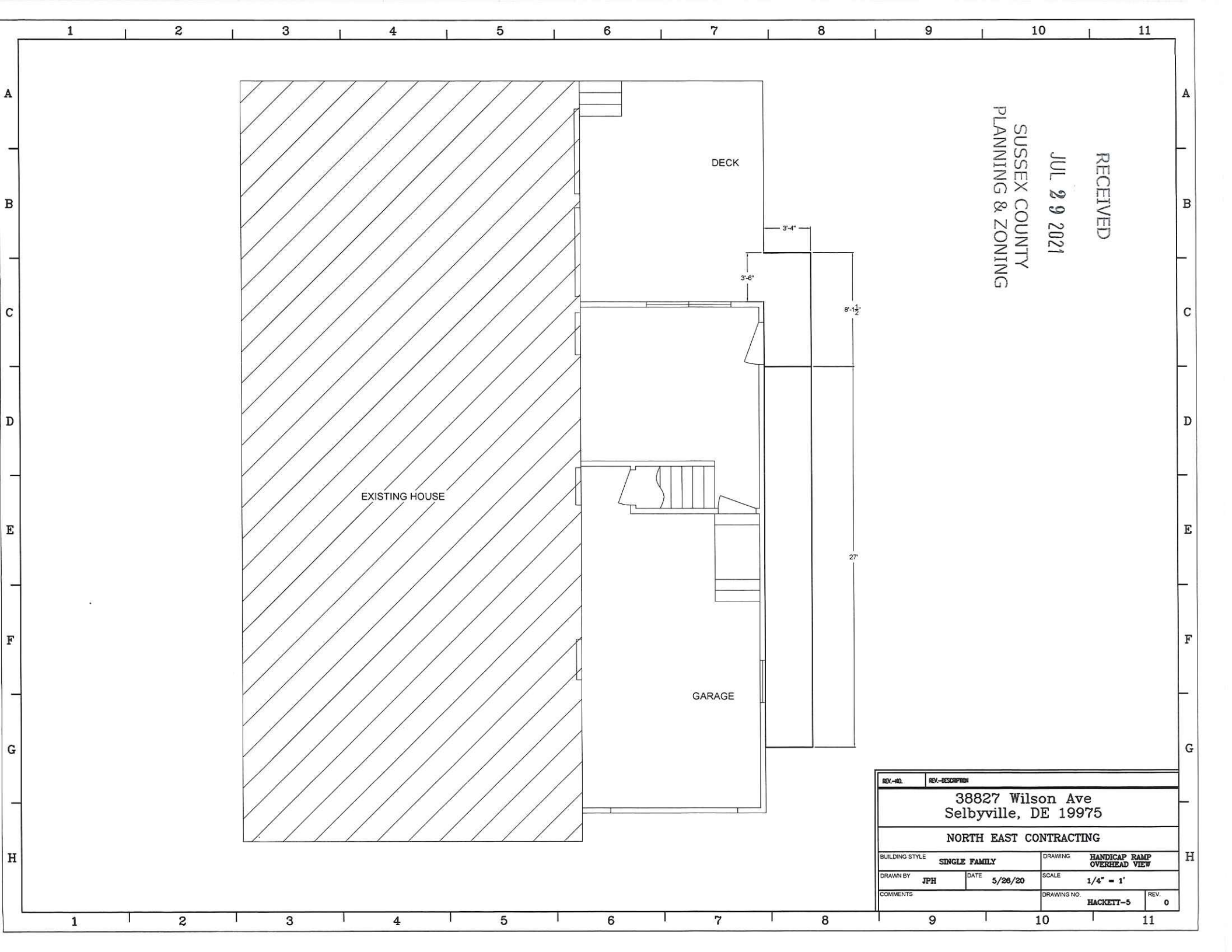


REV.-NO.	REV.-DESCRIPTION		
38827 Wilson Ave Selbyville, DE 19975			
NORTH EAST CONTRACTING			
BUILDING STYLE	SINGLE FAMILY	DRAWING	HANDICAP RAMP SIDE ELEVATION
DRAWN BY	JPH	DATE	5/28/20
		SCALE	1/4" = 1'
COMMENTS	DRAWING NO.		REV.
	HACKETT-9		0

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REV.-NO.	REV.-DESCRIPTION
38827 Wilson Ave Selbyville, DE 19975	
NORTH EAST CONTRACTING	
BUILDING STYLE	DRAWING
SINGLE FAMILY	HANDICAP RAMP REAR ELEVATION
DRAWN BY	DATE
JPH	5/28/20
SCALE	1/4" = 1'
COMMENTS	DRAWING NO.
	HACKETT-3
	REV.
	0



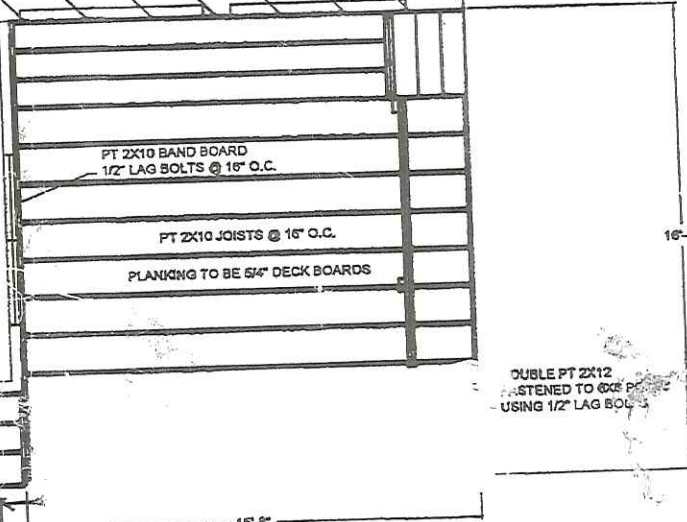
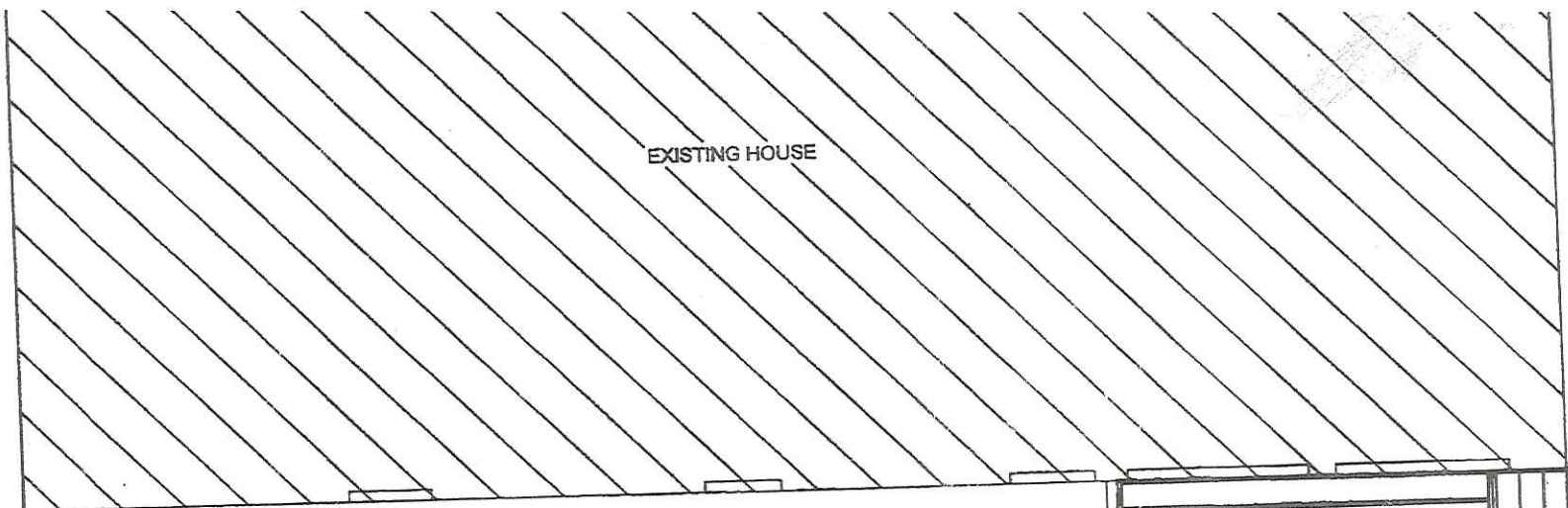
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 JUL 29 2021
 SUSSEX COUNTY
 PLANNING & ZONING

REV.-NO.	REV.-DESCRIPTION
38827 Wilson Ave Selbyville, DE 19975	
NORTH EAST CONTRACTING	
BUILDING STYLE	DRAWING
SINGLE FAMILY	HANDICAP RAMP OVERHEAD VIEW
DRAWN BY	DATE
JPH	5/28/20
SCALE	1/4" = 1'
COMMENTS	DRAWING NO.
	HACKETT-5
	REV. 0

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JUL 29 2021

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PLANNING & ZONING



13'-0"

3'-4"

15'-0"

16'-4"

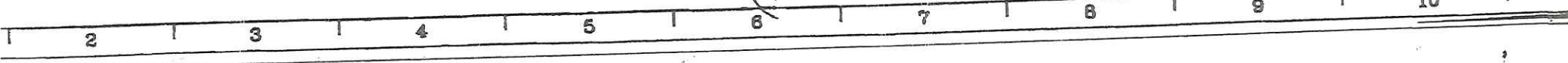
TO BE KEPT
ON JOB SITE

Property Line

SEE ADDITIONAL
CODE REQUIREMENTS

REVIEWED FOR
CODE COMPLIANCE
DATE 7/20/2020
SIGNED: [Signature]

38827 Wilson Ave Selbyville, DE 19975	
NORTH EAST CONTRACTING	
BUILDING STYLE	SINGLE FAMILY
DRAWING	DECK - APRIL
DRAWN BY	JPH
DATE	8/20/20
SCALE	1/4" = 1'
COMMENTS	DRAWING NO. HACKETT-8



Chase Phillips

From: Judy h <myquinn1217@gmail.com>
Sent: Tuesday, July 27, 2021 6:39 PM
To: Chase Phillips; Ann Lepore
Subject: Case #12592 Shirley H. Rozanski

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Variance for property owned by: John and Judith Humphreys
37022 Laws Point Road
Selbyville, DE 19975

Approximately two weeks ago, I signed a letter regarding an application for a variance on the above mentioned property. After careful consideration and being advised that this could possibly decrease the value of our property, due to the appearance of the structures. This is a concern because of selling our property in the near future. We are going to withdraw the request for the variance. Sorry for any inconvenience this may cause, I am

Sincerely,

John and Judith Humphreys

cc: Diane Barrett barrettdi@comcast.net

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JUL 29 2021

SUSSEX COUNTY
PLANNING & ZONING

**Opposition
Exhibit**

3rd party opposition
Planner explained that
only the applicant
may withdraw the
application.