

**TOWN OF SELBYVILLE  
BOARD OF ADJUSTMENT  
MINUTES  
August 16, 2022**

Chairman/Mayor Murray called the Board of Adjustment Hearing to order at 5 o'clock pm. Member/Councilman Tingle and Member/Town Solicitor Mary Schrider-Fox were in attendance. Also in attendance was Town Administrator Stacey Long as Secretary of the Board

The meeting was properly advertised 15 days in advance in a publication of general circulation.

Visitors in attendance were the applicants Gregory & Maria Snapp. No other visitors were in attendance.

The applicants presented their request to add an addition to their home located at 11 Ronzetti Avenue, approximately 12' X 40' in size, which will include a bedroom and bathroom on the eastern side of their home. Such an addition will encroach into the existing side yard setback in varying degrees along the eastern property line, with a maximum encroachment of approximately 4 feet.

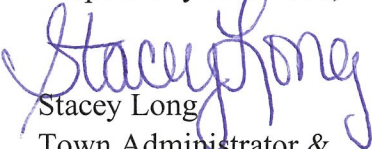
There were no letters received on the application in favor of or in opposition of the requested variance.

The finding of facts and decision of the Board of Adjustment is attached hereto.

Member/Town Solicitor Mary Schrider-Fox made a motion to approve the variance as amended by the applicants to change the addition dimensions from 12' X 40' to 10' X 40' to decrease the encroachment into the side yard setback. The motion was seconded by Member/Councilman Tingle and carried by all.

There being no further business, Member/Town Solicitor Mary Schrider-Fox made a motion to adjourn the hearing. The motion was seconded by Member/Councilman Tingle and carried by all.

Respectfully submitted,

  
Stacey Long

Town Administrator &  
Secretary of the Board of Adjustment

**BEFORE THE BOARD OF ADJUSTMENT  
OF THE TOWN OF SELBYVILLE**

**IN RE:** :  
 :  
**APPLICATION OF** : **DECISION**  
 :  
**GREGORY AND MARIA SNAPP** :

The Board of Adjustment of the Town of Selbyville convened at 5:00 o'clock in the afternoon, prevailing time, on Tuesday, August 16, 2022, at the Town Hall, 1 West Church Street, Selbyville, Sussex County, Delaware, to hear the application of Gregory and Maria Snapp ("Applicants") for a variance from the 7 foot minimum, aggregate of 15 feet, side yard setback requirement imposed by Section 200-32.B of the Zoning Code for residential property owned by Applicants, located at 11 Ronzetti Avenue, Selbyville, Delaware, Sussex County Tax Map and Parcel No. 533-17.00-460.00. Present for the Board of Adjustment were Clifton C. Murray, Mayor and Chair, and members Clarence W. Tingle, Jr., and Mary R. Schrider-Fox, Town Solicitor. Present as well were Stacey Long, Town Administrator and Secretary for the Board of Adjustment. Applicants, Gregory and Maria Snapp, appeared and presented the application to the Board.

**FINDINGS OF FACT**

The Applicants, Gregory and Maria Snapp, are the owners of residential real property located at 11 Ronzetti Avenue, Selbyville, Delaware, Sussex County Tax Map and Parcel No. 533-17.00-460.00, within the Victoria Forest residential subdivision and corporate limits of the Town of Selbyville, Sussex County, State of Delaware (the "subject property"). The subject property is located in the R-2 Residential District, which has a 7 foot minimum, aggregate of 15 feet, side yard setback requirement imposed by Section 200-32.B of the Zoning Code.

The subject property is improved with a residential dwelling that has a deck and sunroom attached to the rear of the dwelling, as well as swimming pool and shed located in the rear yard, all as depicted on the survey submitted with the application in this matter.

Mr. Snapp's mother, who is no longer able to live in her home in Newark, Delaware, is relocating to Sussex County and will be moving in with Applicants on the subject property. Mrs. Snapp's mother already lives with Applicants on the subject property and occupies the extra first floor bedroom in their home.

In order to accommodate Mr. Snapp's mother, an additional bedroom space needs to be created. Applicants would like to construct an addition approximately 12' x 40' in size, which will include a bedroom and bathroom for Mr. Snapp's mother, on the eastern side of their home on the subject property. Such an addition will encroach into the existing side yard setback in varying degrees along the eastern property line, with a maximum encroachment of

approximately 4 feet. The estimated cost of construction is between \$50,000.00 and \$70,000.00.

Applicants considered creating a new bedroom and bathroom over the existing garage on the subject property, which they would occupy so Mr. Snapp's mother could occupy their bedroom on the first floor. However, Applicants have been advised by contractors that, in order to ensure that the necessary structural integrity exists to support the weight of such living quarters over the garage, the cost of construction will be approximately 50% more than if Applicants constructed an addition to the side of their home.

The eastern property line of the subject property runs at an angle and is not a straight line.

After some discussion with the Board, the Applicants stated that they are willing to modify the size of their addition so that it is 10' x 40' in size and will only encroach a maximum of 2 feet into the side yard setback on the eastern side of their home.

The Board received no comments from Applicants' neighbor to the east or from the general public, either in person at the hearing or in writing.

### CONCLUSIONS

Pursuant to Section 200-132. C. of the Zoning Code of the Town of Selbyville, the Board of Adjustment shall:

authorize upon appeal, in specific cases, such variance from the chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship or exceptional practical difficulties to the owner of the property, and so that the spirit of this chapter shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the chapter or Zoning Map.

Under Delaware case law, the Delaware Supreme Court has defined the two (2) types of variances, "use" variances and "area" variances. The Board of Adjustment v. Kwik-Check Realty, Inc., Del. Supr. 389 A.2d at 1289, 1291 (1978). That court indicated that "a use variance is a variance that changes the character of the zoned district by allowing the land to be used for a purpose otherwise proscribed by the zoning regulations." Id. However, an area variance "does not involve a prohibited use, and 'concerns only the practical difficulty in using the particular property for permitted use.'" Id. at 1291. The variance requested in this instance is an area variance to which the "exceptional practical difficulty" standard applies.

The Board concludes that the Applicants face an exceptional practical difficulty in relation to their efforts to make a normal improvement to the subject property that is necessary

to accommodate an important family need, as the eastern property line of the subject property is at an angle and not a uniform straight line.

The Board further concludes that the modified 10' x 40' size of the addition to be constructed by Applicants and, thus, the need for a 2 foot maximum side yard variance is the minimum necessary to accommodate the exceptional practical difficulty that they presently face.

The Board further concludes that the harm to Applicants, if the requested variance is not granted, will exceed any possible harm to neighboring properties, as the other options to construct additional living space on the subject property are much more expensive and cost prohibitive.

The Board further concludes that the spirit of the zoning regulations is met and substantial justice is done by the granting of the variances since there is no detriment to the public good and the requested variance will not adversely affect the safety of Applicants or their neighbor, as emergency personnel will still have sufficient space between properties to access the subject property and its neighbor.

#### **DECISION**

It is the unanimous decision of the Board of Adjustment of the Town of Selbyville that a variance from the 7 foot minimum, aggregate of 15 feet, side yard setback requirement imposed by Section 200-32.B of the Zoning Code is hereby granted for the Applicants' property located at 11 Ronzetti Avenue, Selbyville, Delaware, Sussex County Tax Map and Parcel No. 533-17.00-460.00, within the Victoria Forest residential subdivision. More specifically, the Applicants are hereby permitted to encroach a maximum of 2 feet into the side yard setback on the eastern side of their home in order to construct an addition that will include a bedroom and bathroom for Mr. Snapp's mother relocating to Sussex County.

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SIGNATURES TO FOLLOW ON NEXT PAGE]

BOARD OF ADJUSTMENT OF  
THE TOWN OF SELBYVILLE

By: Clifton C. Murray  
Clifton C. Murray, Mayor/Chair

By: Clarence W. Tingle, Jr.  
Clarence W. Tingle, Jr., Member

By: Mary R. Schrider-Fox  
Mary R. Schrider-Fox, Member/Town Solicitor

Date Filed with Town: 8/31/22

Date Mailed/Emailed to Applicants: 8/31/22