

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FRANK MCCARTHY AND BONNIE MCCARTHY (Case No. 10996)

A hearing was held after due notice on July 2, 2012. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

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

Findings of Fact

The Board found that the Applicant was seeking a variance of 1.7 feet from the required 10 foot side yard setback requirement for an existing dwelling. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Route 54, northwest of Pine Road, being Lot 40 within Keen-Wik development; said property being identified as Sussex County Tax Map Parcel Number 5-33-19.12-42.00. After a hearing, the Board made the following findings of fact:

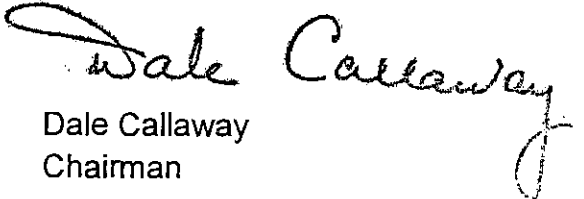
1. Bonnie McCarthy appeared at the hearing and testified on behalf of the Application.
2. Susan Gardner, Esquire, appeared on behalf of the Applicants and presented the Application to the Board.
3. The Board found that Ms. Gardner stated that the Applicants purchased the Property on October 15, 2011, and that a survey completed for settlement showed the encroachment.
4. The Board found that Ms. Gardner stated that the Applicants did not build the existing dwelling and that a Certificate of Compliance was issued on the dwelling.
5. The Board found that Ms. Gardner stated that the Applicants would have to tear down a portion of the dwelling in order to comply with the required setback requirements.
6. The Board found that Ms. Gardner stated that the dwelling was constructed in 1983.
7. The Board found that Ms. Gardner stated that the variance will not alter the character of the neighborhood and that the Homeowner's Association approves the Application.
8. The Board found that Ms. McCarthy, under oath, confirmed the statements of Ms. Gardner.
9. The Board found that the Applicants submitted pictures in support of the Application.
10. The Board found that no parties appeared in opposition to or in support of the Application.
11. The Planning & Zoning Office received two (2) letters in support of the Application.
12. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The need for the variance was not created by the Applicant. The variance is necessary to enable reasonable use of the Property. The variance will not alter the essential character of the neighborhood and is the minimum variance to afford relief. The variance represents the least modification possible of the regulation in issue. Additionally, the variance is not detrimental to the public welfare.

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 application was granted. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Application.

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 August 7, 2012