

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

**IN RE: TARA MCDONALD (Case No. 11152)**

A hearing was held after due notice on February 4, 2013. 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 from the side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5 feet from the 10 feet side yard setback requirement for an existing in-ground pool. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Route 54 (Lighthouse Road) northeast of Pine Road, being Lot 35 within Keen-wik development; said property being identified as Sussex County Tax Map Parcel Number 5-33-19.12-47.00. After a hearing, the Board made the following findings of fact:

1. Tara McDonald was sworn in to testify on behalf of the Application.
2. The Board found that Ms. McDonald testified that she purchased the Property in May 2012 and that she had the pool installed that summer.
3. The Board found that Ms. McDonald testified that the proposed location of the pool was based on the survey completed for her settlement.
4. The Board found that Ms. McDonald testified that the pool company installed the pool while she was out of town and that the pool company moved the pool over five (5) feet from the staked out location to keep the pool from being too close to a set of existing steps.
5. The Board found that Ms. McDonald testified that 1,000 square feet of concrete had also been poured around the pool and would be a large expense to move the pool.
6. The Board found that Ms. McDonald testified that the variance is necessary to enable reasonable use of the Property.
7. The Board found that Ms. McDonald testified that the existing stairs create a unique situation.
8. The Board found that Ms. McDonald testified that a building permit was obtained for the pool.
9. The Board found that Ms. McDonald testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Ordinance.
10. The Board found that Ms. McDonald testified that the difficulty was not created by the Applicant because the installer made a mistake.
11. The Board found that Ms. McDonald testified that the variance will not alter the essential character of the neighborhood.
12. The Board found that Ms. McDonald testified that the variance requested is the least modification of the regulation at issue.
13. The Board found that Ms. McDonald testified that the variance is the minimum variance to afford relief.
14. The Board found that Ms. McDonald testified that the variance sought is not detrimental to the public welfare.
15. The Board found that Ms. McDonald testified that the Homeowner's Association and neighbors support the Application.
16. The Board found that no parties appeared in support of or in opposition to the Application.

17. The Board found that the Office of Planning & Zoning received a letter in support of the Application from the Keenwik Building Commission
18. 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 Property is unique. The difficulty 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. The variance sought is the minimum variance necessary to afford relief.

The Board approved 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 approved. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion to Approve 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 March 19, 2013