

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MICHAEL KAPELA & KALEOPE KAPELA

(Case No. 11202)

A hearing was held after due notice on May 6, 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 variances from the front yard and side yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of 2.7 feet from the ten (10) feet side yard setback requirement for an existing dwelling and a variance of 4.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Route 54 west of Keen-Wik Road, being Lot 14 within Keen-Wik Subdivision; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.13-34.00. After a hearing, the Board made the following findings of fact:

1. Michael Kapela was sworn in to testify about the Application.
2. The Board found that Mr. Kapela testified that he purchased the Property in November 2012 and that the dwelling has been on the lot since at least 1970.
3. The Board found that Mr. Kapela testified that the Property is located within the Keen-Wik subdivision and that the setback requirements in 1970 were five (5) feet.
4. The Board found that Mr. Kapela testified that he obtained a building permit from Sussex County to raise the existing dwelling on its existing footprint.
5. The Board found that Mr. Kapela testified that the President of the Homeowners Association advised him of an issue with the setback requirements.
6. The Board found that Mr. Kapela testified that Hurricane "Sandy" caused damage to his home and created the need to raise the dwelling.
7. The Board found that Kevin Kleinstuber was sworn in and testified in support of the Application.
8. The Board found that Mr. Kleinstuber testified that the dwelling was damaged from the hurricane and that he raised the dwelling within the same footprint to alleviate problems from flooding.
9. The Board found that Mr. Kleinstuber testified that all additions to the dwelling were made in compliance with the setback requirements.
10. The Board found that Mr. Kapela testified that an existing deck on the south side of the Property has been removed and that the shed has been removed.
11. The Board found that Mr. Kapela testified that his builder obtained the building permit and that he added enclosed steps within the building envelope.
12. The Board found that two (2) parties appeared in support of the Application.
13. The Board found that no parties appeared in opposition to the Application.
14. 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 dwelling has been non-conforming for a long time and the problems with the flood make the situation unique. The variances are necessary to enable reasonable use of the Property. The variances will not alter the essential character of the neighborhood since the

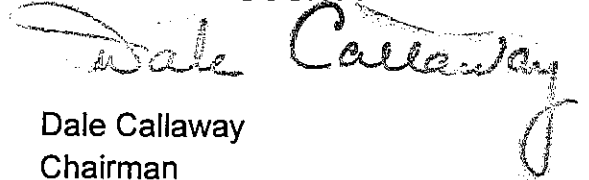
dwelling has been on the Property for forty (40) years. The variances sought are the minimum variances necessary to afford relief.

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 June 18, 2013