

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JAMES SHUGART AND PATRICIA SHUGART

(Case No. 11231)

A hearing was held after due notice on July 15, 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 Applicants were seeking a variance of 4.8 feet from the ten (10) feet side yard setback requirement for a proposed dwelling and a variance of 3.6 feet from the ten (10) feet side yard setback requirement for a proposed roof over a doorway, a proposed second-level deck, and a proposed HVAC unit. The Applicants have requested that the aforementioned requested variance be granted as they pertain to certain real property located north of Route 54 (Lighthouse Road) east of Canvasback Road, being Lot 16, Block D, Section A, within Swann Keys Development; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-407.00. After a hearing, the Board made the following findings of fact:

1. James Shugart was sworn in to testify about the Application.
2. James Fuqua, Esquire, appeared on behalf of the Applicants.
3. The Board found that Mr. Fuqua stated that the Property is located within the Swann Keys development and that the Applicants purchased the Property in 1987.
4. The Board found that Mr. Fuqua stated that the existing manufactured home needs to be replaced.
5. The Board found that Mr. Fuqua stated that a lagoon is located in the rear of the Property and that the lot measures forty (40) feet wide by one hundred and one (101) feet deep.
6. The Board found that Mr. Fuqua stated that Swann Keys is an older development for singlewide mobile homes and that newer homes are being placed on lots in Swann Keys.
7. The Board found that Mr. Fuqua stated that the proposed dwelling will measure twenty four (24) feet four (4) inches by seventy two (72) feet.
8. The Board found that Mr. Fuqua stated that the narrow lot will not allow the proposed dwelling to meet the required setback requirements.
9. The Board found that Mr. Fuqua stated that a variance is needed on the north side of the Property.
10. The Board found that Mr. Fuqua stated that the neighbor on the north side has no objection to the Application.
11. The Board found that Mr. Fuqua stated that the lot is unique in size.
12. The Board found that Mr. Fuqua stated that the variance will enable reasonable use of the Property as there have been similar dwellings constructed in the development.
13. The Board found that Mr. Fuqua stated that the variances will not alter the character of the neighborhood.
14. The Board found that Mr. Fuqua stated that the variances are the minimum variances necessary to afford relief.
15. The Board found that Mr. Fuqua stated that there have been over eighty (80) variances granted throughout the development including three (3) variance applications approved on neighboring properties.
16. The Board found that Mr. Fuqua stated that most of the variances granted were for side yard variances.
17. The Board found that Mr. Fuqua stated that the difficulty was not created by the Applicants because the lots were laid out by the original developer.

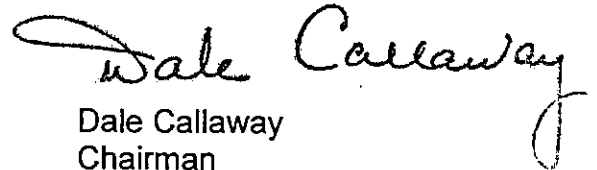
18. The Board found that Mr. Shugart, under oath, confirmed the testimony of Mr. Fuqua.
19. The Board found that Mr. Fuqua submitted exhibits for the Board to review.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. The Board found that the Office of Planning & Zoning received one (1) letter of support.
22. The Board found that no parties appeared in opposition to the Application.
23. 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 because it is only forty (40) feet wide and is narrow. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicants as the Applicants did not create the lot. The variances will not alter the essential character of the neighborhood because other similar variances have been granted in the neighborhood. The variances sought are the minimum variances necessary to afford relief. The variances requested represent the least modification possible of the regulation at issue.

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 August 20, 2013