

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOSEPH MOREA & MARY MOREA

(Case No. 11239)

A hearing was held after due notice on August 5, 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 four (4) feet from the thirty (30) feet front yard setback requirement and a variance of five (5) feet from the ten (10) feet side yard setback requirement on both sides of the Property. This application pertains to certain real property located south of Cedar Road west of KeenWik Road, being Lot 12 Subdivision 1 within Keen-Wik Development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.13-35.00. After a hearing, the Board made the following findings of fact:

1. Joseph Morea and Mary Ellen Morea were sworn in to testify on behalf of the Application.
2. James Fuqua, Esquire, presented the Application on behalf of the Applicants.
3. The Board found that Mr. Fuqua submitted exhibits for the Board to review; which exhibits included a site plan a comparison of the differences in the setback requirements from the Zoning Ordinance and the deed restrictions for Keen-Wik, a copy of portions of the deed restrictions for Keen-Wik, a copy of the Minutes of the Board of Adjustment for Case No. 9798, a copy of a letter from Edward J. Brady, Chairman Keen-Wik Building Committee, and a copy of a portion of the Sussex County Tax Map showing lots that were granted variances in the immediate area to this lot.
4. The Board found that Mr. Fuqua stated that the Property is fifty (50) feet wide and one hundred (100) feet deep.
5. The Board found that Mr. Fuqua stated that the Property is vacant and abuts a lagoon in the rear yard.
6. The Board found that Mr. Fuqua stated that the Applicants intend to construct a dwelling which will be forty two (42) feet wide by fifty two (52) feet deep.
7. The Board found that Mr. Fuqua stated that the Applicants need a variance on both sides of the Property.
8. The Board found that Mr. Fuqua stated that the development is unusual because the private deed restrictions for the Keen-Wik Development differ from the Sussex County Zoning requirements as the Keen-Wik restrictions require setbacks of twenty five (25) feet for the front yard, twenty (20) feet for the rear yard, and five (5) feet for the side yard.
9. The Board found that Mr. Fuqua stated that the home will meet all Keen-Wik setback requirements.
10. The Board found that Mr. Fuqua stated that several variances have been granted in Keen-Wik.
11. The Board found that Mr. Fuqua stated that the building plans have been approved by the Keen-Wik Building Committee.
12. The Board found that Mr. Fuqua stated that the most lots in Keen-Wik are larger than fifty (50) feet wide.

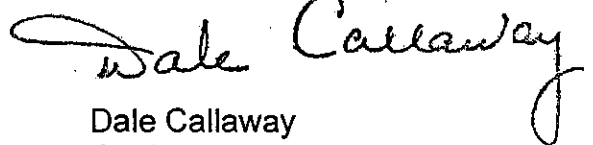
13. The Board found that Mr. Fuqua stated that the Keen-Wik rear yard building restrictions create a difficulty in building a house in compliance with both the restrictions and the Sussex County Zoning Code.
14. The Board found that Mr. Fuqua stated that the variances will not alter the essential character of the area and will be similar to several other variances in the immediate area.
15. The Board found that Mr. Fuqua stated that the variances requested are the least modifications necessary to afford relief.
16. The Board found that Mr. Fuqua stated that most of the homes in Keen-Wik comply with the twenty five (25) feet front yard setback.
17. The Board found that Mr. Fuqua stated that the deed restrictions for Keen-Wik were established prior the Sussex County having zoning jurisdiction over the Property.
18. The Board found that Joseph Morea, under oath, confirmed the statements of Mr. Fuqua as being true and correct.
19. The Board found that the Office of Planning and Zoning received one (1) letter in support of the Application.
20. The Board found that no parties appeared in support of or in opposition to the Application.
21. Based on the findings above and the testimony presented at the public hearing, the Board determined that the application met the standards for granting a variance for the following reasons. The Property is fifty (50) feet wide and one hundred (100) feet deep. The variances requested represent the least modification possible of the regulation at issue. The Property is unique due to the small lot size. The variances are necessary to enable reasonable use of the Property. The front of the home will line up with the other homes along this street. The difficulty was not created by the Applicants. The variances sought will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary to afford relief.

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 for a variance 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 Board Members voted against the Motion to approve the variance 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 September 10, 2013