

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: BEATRICE ANTONINI

(Case No. 11248)

A hearing was held after due notice on August 19, 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 side yard setback requirement.

Findings of Fact

The Board found that the Applicant was seeking a variance of five (5) feet from the ten (10) feet side yard setback requirement for a proposed dwelling, a variance of nine (9) feet from the ten (10) feet side yard setback requirement for a proposed set of steps, a variance of 8.1 feet from the ten (10) feet side yard setback requirement for a proposed HVAC unit, and a variance of 3.4 feet from the ten (10) feet side yard setback requirement for a proposed stoop with a roof. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property north of Route 54 east of Canvasback Road and 1,030 feet north of Swann Drive and being Lot 27D within Swann Keys development; said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-396.00. After a hearing, the Board made the following findings of fact:

1. Beatrice Antonini was sworn in to testify on behalf of the Application.
2. James Fuqua, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Fuqua submitted exhibits for the Board to review.
4. The Board found that Mr. Fuqua stated that the Property is located within the Swann Keys development.
5. The Board found that Mr. Fuqua stated that a manufactured house has been located on the Property for more than twenty (20) years.
6. The Board found that Mr. Fuqua stated that the Applicant used the Property for a summer home and recently became a full-time resident in September 2012.
7. The Board found that Mr. Fuqua stated that the lot is undersized as it measures forty (40) feet by one hundred and four (104) feet.
8. The Board found that Mr. Fuqua stated that the Property abuts a lagoon in the rear.
9. The Board found that Mr. Fuqua stated that the Applicant plans to remove the existing manufactured home.
10. The Board found that Mr. Fuqua stated that the proposed two-story dwelling will measure twenty four (24) feet by fifty five (55) feet and that a variance is necessary to place the dwelling on the lot.
11. The Board found that Mr. Fuqua stated that the proposed dwelling will be 10.6 feet from the side yard boundary.
12. The Board found that Mr. Fuqua stated that the proposed steps and HVAC are on the north side of the Property and that the steps on the north side of the Property will be used for emergency access only.
13. The Board found that Mr. Fuqua stated that the steps on the south side of the Property will be covered with a roof and the steps will lead to the main entrance of the dwelling.
14. The Board found that Mr. Fuqua stated that the Applicant plans to erect a fence along the north side Property line to minimize noise.
15. The Board found that Mr. Fuqua stated that the Property is unique due to its size.


16. The Board found that Mr. Fuqua stated that the Property can only accommodate a single-wide dwelling but the community is transitioning to a stick-built home community.
17. The Board found that Mr. Fuqua stated that the variances will enable reasonable use of the Property.
18. The Board found that Mr. Fuqua stated that the Property cannot be developed in strict conformity with the Sussex County Zoning Code.
19. The Board found that Mr. Fuqua stated that the variances will not alter the character of the neighborhood as the proposed dwelling will be in conformity with other dwellings in the neighborhood.
20. The Board found that Mr. Fuqua stated that the difficulty has not been created by the Applicant.
21. The Board found that Mr. Fuqua stated that the variances requested are the minimum variances necessary to afford relief.
22. The Board found that Mr. Fuqua stated that there have been over eighty (80) variances granted in the development and that there have been twenty-nine (29) variances granted on Canvasback Road including one on an adjacent lot and one on a lot across the street from the Property.
23. The Board found that Mr. Fuqua stated that the proposed location of the dwelling, steps and HVAC will be the same distance from the north side property line as the existing manufactured home, steps and HVAC.
24. The Board found that Ms. Antonini, under oath, confirmed the testimony of Mr. Fuqua.
25. The Board found that three (3) parties appeared in support of the Application.
26. The Board found that no parties appeared in opposition to the Application.
27. 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 an undersized lot. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant as the Applicant 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 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 October 8, 2013