

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

**IN RE: THOMAS A. CASADEVALL, TRUSTEE**

**(Case No. 11265)**

A hearing was held after due notice on September 23, 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 1.1 feet from the ten (10) feet side yard setback requirement for an existing second floor deck. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property south of Route 54 (Lighthouse Road) and being north of Riverbirch Drive 50 feet from the end of the cul-de-sac and being Lot 19 Section 7 within Keen-wik development; said property being identified as Sussex County Tax Map Parcel Number 5-33-19.16-5.00. After a hearing, the Board made the following findings of fact:

1. Jean Churney was sworn in to testify on behalf of the Application.
2. Raymond Tomasetti, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Tomasetti presented exhibits to the Board for review.
4. The Board found that Mr. Tomasetti stated that the Applicant's family has owned the Property for over thirty six (36) years.
5. The Board found that Mr. Tomasetti stated that the Property is located within the Keen-wik development and that the Property is located on a cul-de-sac.
6. The Board found that Mr. Tomasetti stated that the cul-de-sac does not follow the survey and that a boundary marker appears to be off by 0.3 feet which led to surveys of lots in Keen-wik having discrepancies.
7. The Board found that Mr. Tomasetti stated that the deck was constructed along with the existing dwelling.
8. The Board found that Mr. Tomasetti stated that the building permit was issued in December 1976 and the Certificate of Compliance was issued in July 1977.
9. The Board found that Mr. Tomasetti stated that the difficulty was not created by the Applicant.
10. The Board found that Mr. Tomasetti stated that the variance will enable reasonable use of the Property.
11. The Board found that Mr. Tomasetti stated that the variance will not alter the character of the neighborhood because the deck has been in its current location for thirty six (36) years.
12. The Board found that Mr. Tomasetti stated that the variance requested is the minimum variance to afford relief.
13. The Board found that Mr. Tomasetti stated that the Applicant wishes to have the deck remain in its current location.
14. The Board found that Ms. Churney, under oath, confirmed the testimony of Mr. Tomasetti.
15. The Board found that Larry Thyne was sworn in and testified in support of the Application and testified that he is a neighbor of the Applicant.
16. The Board found that Mr. Thyne testified that his only concern was if the variance was for future construction and that he has no objection to the existing structure.

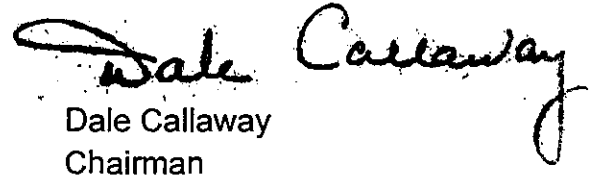
17. The Board found that one (1) party appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique. The variance is necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. 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 November 5, 2013