

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JAMES SHEAF & LAURIE SHEAF

(Case No. 11917)

A hearing was held after due notice on February 20, 2017. The Board members present were: Mr. John Mills, Mr. Jeff Hudson, 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 Applicants are requesting a variance of 5 feet from the ten (10) feet side yard setback requirement on the north side for a proposed dwelling, a variance of 8.2 feet from the ten (10) feet side yard setback requirement on the north side for a proposed HVAC system, a variance of 6.7 feet from the ten (10) feet side yard setback requirement on the north side for a proposed fireplace, and a variance of 4.4 feet from the ten (10) feet side yard setback requirement on the south side for proposed attached storage. This application pertains to certain real property located on the southeast side of Blue Teal Road approximately 1,295 feet northeast of Swann Drive (911 Address: 37050 Blue Teal Road, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-12.16-483.00.

1. The Board was given copies of the Application, a survey of the Property dated November 16, 2016, an aerial photograph of the Property, and a portion of the tax map.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Laurie Sheaf was sworn in to testify about the Application. James Fuqua, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.
4. The Board found that Mr. Fuqua stated that the Property is located in the Swann Keys development. The Property fronts on Blue Teal Road and is bordered by a lagoon in the rear. The Property is 40 feet wide and consists of 4,064 square feet. The lot is zoned GR (General Residential).
5. The Board found that Mr. Fuqua stated that the Applicants propose to construct a new house that will be 24.4 feet wide by 66 feet deep with a porch in the rear.
6. The Board found that Mr. Fuqua stated that the Property is unique as it is narrow and small.
7. The Board found that Mr. Fuqua stated that a reasonably sized home cannot be constructed on the Property in compliance with the Sussex County Zoning Code.
8. The Board found that Mr. Fuqua stated that the exceptional practical difficulty was not created by the Applicants.
9. The Board found that Mr. Fuqua stated that the lot size was originally created when Swann Keys was developed.
10. The Board found that Mr. Fuqua stated that Swann Keys was once a manufactured home community but, over the past 20-30 years, Swann Keys has evolved from a manufactured home community to a community with stick-built homes throughout the community.
11. The Board found that Mr. Fuqua stated that the variances requested are consistent with similar variances granted throughout Swann Keys. 17 variances have been granted within close proximity to the Property.
12. The Board found that Mr. Fuqua stated that the variances will not alter the essential character of the neighborhood.

13. The Board found that Mr. Fuqua stated that the new homes have improved the appearance of the community and have significantly increased property values in the neighborhood.
14. The Board found that Mrs. Sheaf, under oath, affirmed the statements made by Mr. Fuqua.
15. The Board found that Mrs. Sheaf testified that the proposed dwelling will be two stories tall and the proposed fireplace will be attached to the home.
16. The Board found that Mrs. Sheaf testified that neighbors have no issues with the proposal and the neighbors were pleased that the prior home on the Property was removed.
17. The Board found that Mrs. Sheaf testified that the HVAC system cannot be moved to the opposite side because of the stairs and storage located on that side of the Property.
18. The Board found that no parties appeared in support of or in opposition to the Application.
19. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is clearly unique as it is a small and narrow lot. The Property was created and developed as part of a mobile home park that is now evolving into a community with stick-built and larger homes. The Property is only forty (40) feet wide; as is clearly shown on the survey. The narrowness of the Property has created an exceptional practical difficulty for the Applicants. These unique physical conditions have created an unusual and limited building envelope for the Applicants.
 - b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property was developed many years ago by a prior owner but the previous manufactured home has been removed. The Applicants seek to place the proposed dwelling and structures on the Property but are unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow the dwelling and structures to be constructed on the Property. The Board is convinced that the size, shape, and location of these structures are reasonable, which is confirmed when reviewing the survey provided by the Applicants.
 - c. The exceptional practical difficulty was not created by the Applicants. The Property was created and developed many years ago and is an undersized lot. The Board notes that the narrowness greatly limits the building envelope of the lot. The Applicants did not create the size and shape of the lot. Rather, those conditions pre-existed the Applicants' acquisition of the Property. These unique physical conditions have resulted in a limited building envelope and have created the exceptional practical difficulty for the Applicants.
 - d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The dwelling and structures are similar to other houses in the neighborhood and the Applicants have designed the home to fit with the character of the neighborhood. The Board notes that Swann Keys is evolving from a community of mobile homes to newer homes and many variances have been granted in the area. Furthermore, no evidence was presented which

would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.

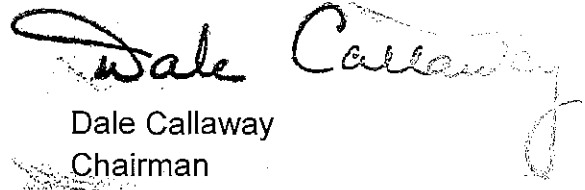
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to construct a reasonably sized home with related structures on the lot and the home and structures will be consistent with other homes in the community.

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 variance application was approved. The Board Members in favor were Mr. Jeff Hudson, Mr. John Mills, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application. Mr. Dale Callaway and Mr. Norman Rickard did not participate in the discussion or vote on this 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 April 4, 2017.