

**BOROUGH OF WIND GAP
29 MECHANIC STREET
WIND GAP, PA 18091
610-863-7288**

ZONING HEARING BOARD

IN ATTENDANCE: Members: Andrew Biondo III, Anthony Curcio, Kelly Ronalds
Professionals: John Molnar, Solicitor
John E. Blick, Zoning Officer
Millie Del Negro, Secretary

The Zoning Hearing Board meeting of May 7, 2003, was called to order at 7:33 p.m.

**Richard and Rosalie Keenhold
Case No. 3-2003**

All witnesses are sworn in.

John E. Blick presents the Zoning Hearing Board exhibit one: Legal notice for the hearing, application, a copy of Mr. Keenhold and Associates check, three pages of Northampton County tax information, a list of property owners within 200 feet of Mr. Keenhold's property, and the site plan showing the proposed location of the single family dwelling on Fourth Street.

Mr. Molnar asked that Mr. Blick point to the relevant section of the Code for the Variance. Mr. Blick states it is the dimensional requirements for the property located in the R-8 district and the side yard set back should be 10 feet total of 20 feet and, 25 feet in the front and 25 feet in the back total 50 feet. This is a non-conforming lot. Zoning Code in Wind Gap would allow development of a property that met the setback requirements, but this proposed dwelling does not. Mr. Molnar states the engineer of the plan did not describe what the deviation is from the set back but appears to be one foot to one and a half foot. Mr. Molnar said we are here to consider the side yard deviation from the requirements. Mr. William Beal 455 Washington Street asked Mr. Blick "as far as zoning does his house have to be built on a street?" Mr. Blick is not aware of any street requirement that is has to be on a dedicated or ordained street. Mr. Beal says this is non-existent. Mr. Blick said it is accessible. Mr. William Beal said F-Alley is passable and is

open; there is grass on it. It is on an unimproved street. Mr. Molnar asked Mr. Blick if he sees any problems except with the variance and it is on an unimproved street. Mr. Blick had a conversation with Councilman Gassler who thought that the properties had to be curved and looked in the Zoning Ordinance. Mr. Blick would not deny a permit for that issue. Mr. Maynard Beal said that his wife owns the lot North of Mr. Keenhold's existing lot and would like more detail and is the front going to face Fourth Street. Mr. Molnar states Mr. Blick does not know that but when the applicant states his case, Mr. Beal can ask at that time.

Mr. Ron Decesare is here on behalf of Mr. Keenhold. Mr. Molnar asked Mr. Decesare of what capacity he is representing Mr. Keenhold. Mr. Decesare is representing Rick on this property and after he builds on it Mr. Decesare will be selling it for Mr. Keenhold. Mr. Blick states Mr. Keenhold owns it now, and suggests that he appoint someone to represent that; he is an agent or a lawyer. Mr. Decesare is a sales agent and has a responsibility to the owner in the sale of this property. Mr. Blick is raising a rejection and we must rule on that and Mr. Decesare is real estate sales agent and is not here as an attorney. An agent can appear for the owner. Mr. Decesare is not here to commit for Mr. Keenhold. Mr. Molnar states we are dealing with a single-family dwelling and can the applicant obtain a variance for the side yard requirement and what is the side yard deviation. Mr. Decesare said Mr. Keenhold can meet all of the set backs, but he is asking for a variance because the house being 22 feet wide, he wanted to make it 24 feet wide, he is not going to affect Mr. Beal's property by cutting in one more foot, he is not affecting the alley by cutting one more foot. Also, the rule called bimanous variance that is minimal and the Board has a right to grant this.

Mr. Molnar states besides the deminus variance if the applicant is going on the hardship issues, the applicant needs to show necessary hardship and what is the reason for that. John Blick said there had been some case law that said you could apply to lesser standard of hardship to dimensional and there was a recent case by Judge Freeburg. One of the points the Board needs to consider is what is the basis of the hardship requirement? Mr. Decesare said it is more of a practical matter. If Mr. Keenhold can build a house that is 24 foot instead of 22 foot it will be better for the client. It does not matter much to him. Mr. Curcio asked if the home would be one story, Mr. Decesare said yes. Mr. Curcio asked where the frontage would be on Fourth Street, the setback would be nine feet instead of ten feet. Mr. Maynard Beal and his wife Ruth owns the property with her brother and Mr. Beal asked where the front will be and what is the access? Mr. Decesare said to comply with the rules yes. To have access Mr. Keenhold can come off the alley to go to his house, Mr. Beal said that Fourth Street is high ground and Mr. Molnar said we are talking about unimproved Fourth Street. Mr. M. Beal said it is high ground and it is not easy access, and I am concerned how it will affect the other side of Fourth Street property that belongs to my wife Ruth. William Beal asked Mr. Decesare if Mr. Keenhold would have a garage in the basement in the front of the home, as an alternative Fourth Street will just be the front of the home and Mr. Keenhold can park in the rear of the lot in the back of the home. Mr. Beal said if the garage in the basement, the slope is very high, or you will have a very steep driveway. Mr. Molnar asked if Mr. Decesare if he has any thing else to say. Mr. Decesare states that Mr. Keenhold wants to make the best of the property.

Mr. Winton Male 308 West Center Street states he heard this property referred to as an deminus and he does not consider it deminus when it is half as big as it is supposed to be. It is supposed to be an 80' frontage and it is only 40'. And the area is supposed to be 8000 SF and this is only 5000 SF and he is also

concerned about the extension of Fourth Street it may be access, but I do not think it is normal access. Mr. Blick parked next to the property and posted the legal notice on the tree, and the alley goes right to the property. Mrs. Sarah Beal said that is the alley and that is not Fourth Street, you can't get on Fourth Street no way. Mr. Blick said the alley goes right to the property. Mr. Male said the Borough will be required or requested to extend Fourth Street and that would be rather an expensive proposition and also extending Fourth Street at the bottom of the hill as he recalls there is a house there and there will not be a direct connect to Washington Street. That is a cul-de-sac. Also, this is a self-imposed hardship; it was undersized when Mr. Keenhold bought the property. Mr. Male does not think it is appropriate and he spoke to Ethel Manaway and she said someone had requested a variance to put a manufactured home on that property and could not get a variance but it may not be true.

Mr. Molnar asks if anyone else has anything else to say. Mr. Maynard Beal said he has no objection, but if Fourth Street were continued down through there the effect it would have on the lot North of this property. Mr. William Beal said if he is putting in a single-family home to sell, which would be good than something to rent, that Mr. Keenhold thought part of his property was included. Mr. Decesare wants to mention that William Beal is correct the lot adjacent to this property when Mr. Keenhold bought this property at the tax sale there was debates and legal issues over who owned this lot and that was settled because Mr. Keenhold thought that was his property, so he was not creating his own hardship. Also, if someone wants to open up Fourth Street as per Mr. Male is a ridicules statement as most of his are. If we go back to 8-6 in the zoning ordinance number 2, Mr. Keenhold is looking for a reasonable use of this property, and all the neighbors were informed.

Mr. Blick mentions the section 407 C 2 a nonconforming lot requirements. Mr. Blick said if the side yard requirements were met and all other requirements were met, he would give a permit as a matter of right under this particular section. Mr. Molnar said we should see if the Board wants to grant a variance for the side yard deviations, Mr. Blick said is 1 foot a 1 1/2 foot and Mr. Decesare said is 1 foot and there is two standards, one is traditional variance standards as Mr. Blick has correctly pointed out there has been a deviation on dimensional variances however, there is also recent case law in front of Judge Freeburg the common pleas judge, that he ruled that he believed that the dimensional variance still requires proof of hardship. Mr. Keenhold needs to prove some kind of hardship. As far as Fourth Street the Zoning Officer has not ruled on that issue and Mr. Blick said it is not an issue. The ordinance does not prohibit building on an unimproved street or an alley.

Alamander Corporation
Case No. 4-2003

All witnesses are sworn in.

Mr. Blick presenting exhibit one is a copy of the legal notice, application for the variance, three pages of Northampton tax maps and a list of residents within 200 feet. Section 604 8.2 a free standing sign cannot be larger than 40 Square Feet.

No one has any question of the Zoning Officer. Mr. Phillip Saunders, from Sign Med ex is here representing Turkey Hill as their agent. The size of the sign does matter because Turkey Hill is trying to bring in more business and the Krispy Kreme sign will help. Mr. Molnar asked for Mr. Saunders to explain why the variance should be permitted because of a hardship. The reason for the hardship and the size of the sign size was cost prohibited to remove the entire structure of the existing Turkey Hill sign. Mr. Blick asked Mr. Saunders if the sign were smaller would he be able to see it. Mr. Saunders said yes. We have some that are only 7" high. Mr. Molnar asked what the conforming sign size would be. Mr. Blick said 1/2 of 40 square feet, a 4 x 5 sign or some other variation of that. You cannot go more that 40 square feet.

Mr. Curcio asked if the Krispy Kreme sign is 10 square feet and the existing sign is 30 square feet. Mr. Saunders said if Krispy Kreme does go out, the sign could be removed. The Top sign cannot be easily removed.

Hearing portion was closed. Zoning Hearing Board came back from deliberation.

On motion for Richard and Rosalie Keenhold by Kelly Ronald's motions to deny the variance, Mr. Curcio seconded the motion. All if favor

The board will render a written a decision within 45 days and anybody can file an appeal within 30 days of the mailing of that decision.

On motion by Mr. Curcio to accept the variance for Alamander and the Turkey Hill, Krispy Kreme sign and Ms. Ronalds seconded the motion.

All in favor.

Mr. Dentith asked if he could talk. And he does not want to talk to Mr. Blick. Mr. Molnar stated he could file and appeal if he is not happy with the Zoning Officers decision. Mr. Dentith said this is about Mr. & Mr. Jack Nichols. Mr. Blick said this is about an enforcement notice that was sent to Mr. & Mr. Nichols. Mr. Dentith has to file an appeal. Mr. Molnar said the Board cannot talk about this now. Mr. Blick asked Mr. Richard Dentith to see the secretary if he wants to appeal.

Mr. Curcio makes a motion to adjourn and Mr. Biondo seconded the motion. All in-favor.

Meeting was adjourned at 8:35.

Millie Del Negro
Zoning Secretary

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