

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CAROL E. SCHULTZE / PENN CENTRAL LLC (Case No. 11128)

A hearing was held after due notice on December 17, 2012. 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 of the front yard, corner side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5 feet from the 30 feet front yard setback requirement for a proposed second floor balcony for Unit #2, a variance of 10 feet from the 15 feet corner side yard setback requirement for a proposed second floor balcony for Unit #1, a variance of 5 feet from the 10 feet rear yard setback requirement for a proposed second floor balcony for Unit #1, a variance of 5 feet from the 10 feet side yard setback requirement for a proposed second floor balcony for Unit #1, and a variance of 5 feet from the 10 feet side yard setback requirement for a proposed second floor balcony for Unit #2. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located east of Route 1 (Ocean Highway) southeast corner of Bennett Road and Pennsylvania Avenue, being Lot 3 Block 1 within Sussex Shores development; said property being identified as Sussex County Tax Map Parcel Number 1-34-13.15-159.00. After a hearing, the Board made the following findings of fact:

1. Carol Schultze and Thomas Crowley were sworn in and testified on behalf of the Application.
2. The Board found that Mr. Schultze testified that the variances are needed on the South, North, and West side of the Property.
3. The Board found that Mr. Schultze testified that only the balconies of the proposed building will encroach into the setback areas.
4. The Board found that Mr. Schultze testified that the existing building is only 10 feet from the property line fronting Pennsylvania Avenue and that the proposed building will be 40 feet from the property line fronting Pennsylvania Avenue.
5. The Board found that Mr. Schultze testified that the lot is a small, non-conforming lot.
6. The Board found that Mr. Schultze testified that the adjacent property is zoned Commercial.
7. The Board found that Mr. Schultze testified that all setbacks of the Sussex Shores Homeowners Association will be met.
8. The Board found that Mr. Schultze testified that the Property cannot be built in strict conformity with the Sussex County Zoning Ordinance.
9. The Board found that Mr. Schultze testified that the difficulty was not created by the Applicant as the Applicant did not create the lot.
10. The Board found that Mr. Schultze testified that the variances, if granted, will not alter the essential character of the neighborhood.
11. The Board found that Mr. Schultze testified that the proposed buildings will be further from adjacent townhomes than the current structure on the Property.
12. The Board found that Mr. Schultze testified that the proposed balconies will enable residents to have more egress in case of a fire.
13. The Board found that one (1) party appeared in support of the Application.
14. The Board found that no parties appeared in opposition to the Application.

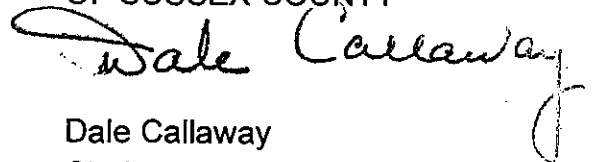
15. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The variances will not alter the essential character of 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 January 29, 2013