

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: STEPHEN YARMOLA

(Case No. 11297)

A hearing was held after due notice on December 9, 2013. The Board members present were: Mr. Dale Callaway, Mr. Jeffrey 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 requesting a variance of 2.5 feet from the ten (10) feet side yard setback requirement for an existing screen porch. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Route 24, and being west of White Pine Drive approximately 2,350 feet northeasterly of Route 24 and also being Lot 74 within Pines at Long Neck Development; said property being identified as Sussex County Tax Map Parcel Number 2-34-23.00-783.00. After a hearing, the Board made the following findings of fact:

1. The Board found that a letter of support from the Pines at Long Neck Homeowners Association and a letter of opposition from a next-door neighbor were submitted into the record.
2. Stephen Yarmola was sworn in to testify about the Application.
3. The Board found that Mr. Yarmola submitted exhibits to the Board to review.
4. The Board found that Mr. Yarmola testified that he originally spoke to his neighbor about placing his hot tub on the Property until his concrete pad was completed and that the neighbors permitted him to use their property.
5. The Board found that Mr. Yarmola testified that, once the concrete pad was complete, he obtained a building permit to construct a screen porch on the existing concrete pad.
6. The Board found that Mr. Yarmola testified that the porch will provide shelter and privacy to his hot tub and fitness equipment.
7. The Board found that Mr. Yarmola testified that, during the construction of the porch, the neighbors were unhappy with the look of the porch but at that time the porch was not yet painted to match the dwelling.
8. The Board found that Mr. Yarmola testified that the porch now matches the rest of the structure.
9. The Board found that Mr. Yarmola testified that the setback requirement was correctly listed on his building permit.
10. The Board found that Mr. Yarmola testified that his first survey, dated January 9, 2012, showed that the existing deck and screen porch were 10.5 feet from the side yard property line.
11. The Board found that Mr. Yarmola testified that he lined the new screen porch up with the existing structure.
12. The Board found that Mr. Yarmola testified that a second survey, completed on September 16, 2013, showed the encroachment.
13. The Board found that Mr. Yarmola testified that the Homeowners Association in support of the Application.
14. The Board found that Mr. Yarmola testified that his lot is an odd shaped lot.
15. The Board found that Mr. Yarmola testified that the variance is necessary enable reasonable use of the Property.
16. The Board found that Mr. Yarmola testified that the variance does not alter the character of the neighborhood.

17. The Board found that Mr. Yarmola testified that the porch will enhance the dwelling.
18. The Board found that Mr. Yarmola testified that the variance is not detrimental to the public welfare.
19. The Board found that Mr. Yarmola testified that the variance sought is the minimum variance to afford relief and that the variance is the least modification of the regulation at issue.
20. The Board found that Mr. Yarmola testified that he measured for the porch based on the January 9, 2012 survey, and that he was unaware of the encroachment until after construction because he thought he was within the building envelope.
21. The Board found that Mr. Yarmola testified that he moved into the Property in January 2012.
22. The Board found that no parties appeared in support of or in opposition to the Application.
23. Based on the testimony presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance for the following reasons. The Property is unique in shape and the two (2) surveys create a unique situation. The Property cannot otherwise be built in strict conformity with the Sussex County Zoning Code. 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. Jeffrey 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 28, 2014