

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: STEPHEN N. PINKSTONE

(Case No. 11300)

A hearing was held after due notice on December 16, 2013. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeffrey Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the separation requirement between buildings in a multi-family project.

Findings of Fact

The Board found that the Applicant was requesting a variance of 7.4 feet from the forty (40) feet separation requirement between buildings in a multi-family project for a proposed second floor deck and enclosed porch. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located south of Long Neck Road and being northeast of Brockton Pass and south of North Gloucester Circle within Fairfield at Long Neck multi-family project and being Unit B12-4; said property being identified as Sussex County Tax Map Parcel Number 2-34-30.00-8.00. After a hearing, the Board made the following findings of fact:

1. The Board found that Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.
2. Stephen Pinkstone was sworn in to testify about the Application.
3. The Board found that Mr. Pinkstone testified that he purchased the unit in July 2010.
4. The Board found that Mr. Pinkstone testified that he obtained a building permit for the deck and porch and then realized the addition would not meet the separation requirement.
5. The Board found that Mr. Pinkstone testified that the separation requirement makes the Property unique.
6. The Board found that Mr. Pinkstone testified that the deck is a reasonable use of the Property as there are other decks in the community.
7. The Board found that Mr. Pinkstone testified that Anderson Homes developed the community and that the original owner had the option to build a deck and porch.
8. The Board found that Mr. Pinkstone testified that the units are staggered within the community which creates a unique situation and that his unit is setback two (2) feet further from the road than other units in his building.
9. The Board found that Mr. Pinkstone testified that the variance will not affect the public welfare.
10. The Board found that Mr. Pinkstone testified that the difficulty was not created by him.
11. The Board found that Mr. Pinkstone testified that there have been similar additions and variances granted in the community.
12. The Board found that Mr. Pinkstone testified that the use will not be detrimental to the public welfare.
13. The Board found that Mr. Pinkstone testified that the deck will measure ten (10) feet by twenty (20) feet with half of that area enclosed.
14. The Board found that Mr. Pinkstone testified that the existing patio will remain.
15. The Board found that Mr. Pinkstone testified that he has the Homeowners Association approval.
16. The Board found that Mr. Pinkstone testified that the addition will not block any views.
17. The Board found that Mr. Pinkstone testified that the area surrounding the unit is common land and owned by the Homeowners Association.
18. The Board found that Mr. Pinkstone submitted pictures and a copy of the Homeowners Association approval to the Board.

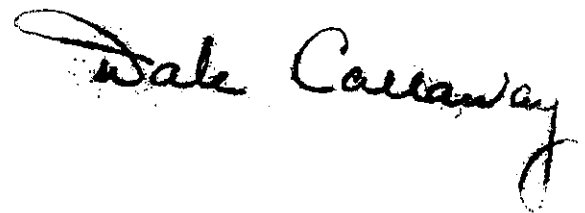
19. The Board found that the variance being sought is actually a variance of 7.4 feet rather than 9.1 feet as stated on the Application.
20. The Board found that Mr. Lank advised the Board that three (3) other units in the community have received variances.
21. The Board found that no parties appeared in support of or in opposition to the Application.
22. 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. Other homes in the neighborhood have similar types of decks. The variance is necessary to enable reasonable use to 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. 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 was not established within one (1) year from the date below the application becomes void.

Date February 18, 2014