

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

**IN RE: KEITH PROPERTIES**

**Case No. 10818 – 2011**

A hearing was held after due notice on July 25, 2011. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson.

### Nature of the Proceedings

This is an application for a special use exception to place a temporary building for sales office and storage.

### Finding of Facts

The Board found that the Applicant was seeking a special use exception to place a temporary building for use as a sales office and for storage on a parcel of Route 54, south of Water Walk Way, Lot 23, Fenwick Shoals. After a hearing, the Board made the following findings of fact:

1. The Board approved the use of the same structure in August 2006, but the Applicant was not aware that the approval was for a limited period of time.
2. There are 7 lots left to be sold in the development, the Applicant has hired a new broker, and therefore wishes to use the unit until the remaining lots are sold. The expectation is that 2 years would be necessary.
3. The unit is 10'x30', and was originally located on a commercial property outside the subdivision. Since that property is now under lease, the Applicant wishes to renew its permission to locate the sales trailer on a lot within the subdivision.
4. Several individuals from the subdivision testified in opposition. They pointed out that the sales trailer is not in the original location, that it was moved to an inside lot in 2008, that the unit has been used for storage only for at least 5 years and not for any sales purposes, that the Owners' Association now controls the development, that the Applicant's property is not well kept, and that community property is located directly across from the site.
5. In response, the Applicant's attorney explained that the placement of the property on the lot was in conjunction with the Board's original approval. He indicated that items being stored in the unit would be removed, but denied that the Owners' Association ever contacted the Applicant prior to the hearing.
6. Richard Hebert, the Association President, pointed out that the community is now gated, and it is not practical to have a sales office within a gated community. He also pointed out that the Applicant should have thought of that and used the commercial property in front of the development, which is an ideal location, prior to leasing it to another party. He also emphasized that the Association had written to the Applicant about the structure prior to the hearing.
7. The Board initially tabled the case, but left the record open in order to allow the Owners' Association to provide the correspondence which was in dispute.
8. Upon further consideration, and after reviewing the correspondence submitted by the Association, the Board determined that the exception would substantially affect adversely adjacent and neighboring properties. The shed was full of stored materials and had not been used for sales purposes for some time, and would be impractical at best in a community with limited access.

The Board denied the application.

Decision of the Board

Upon motion duly made and seconded, the application was denied. The Board members voting in favor of denial were: Mr. Callaway, Mr. McCabe, Mr. Mills, Mr. Workman and Mr. Hudson; voting against denial – none.

**BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY**

A handwritten signature in black ink that reads "Dale Callaway". The signature is written in a cursive style with a large, looping initial "D".

Dale Callaway  
Chairman

Date September 8, 2011.