

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

### IN RE: ANTHONY NERLINGER (Case No. 10918)

A hearing was held after due notice on January 9, 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 a variance of the front yard setback requirement and the minimum lot coverage per dwelling requirement.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 10 feet from the 30 foot front yard setback requirement and a variance of 1,260 square feet from the required 7,260 square foot minimum lot area per dwelling requirement for a proposed duplex. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Route 1 (Costal Highway) east of Ocean Road being Lot 84 within Tower Shores development; said property being identified as Sussex County Tax Map Parcel Number 1-34-5.00-82.00. After a hearing, the Board made the following findings of fact:

1. The Applicant has filed an application before the Planning & Zoning Commission and the Sussex County Council to allow for the construction of a duplex on the aforementioned property.
2. The Applicant is the equitable owner of the Property as he has a contract to purchase the Property.
3. The variances the Applicant seeks are similar to other variances granted in the neighborhood.
4. The proposed footprint of the duplex is the same as the footprint as the unit next door.
5. The Property is unique since it contains a sand dune which limits the building envelope.
6. The Applicant does not intend to decrease the size of the sand dune on the Property and plans to keep as much of the existing vegetation on the Property as practical.
7. The neighborhood surrounding the Property contains lots consisting of primarily multi-family dwellings.
8. The current owner has spent three years marketing the Property as a single family dwelling but was unable to find a buyer.
9. John Shade testified in support of the Application and stated that the proposed building is similar to other units in the neighborhood. He also testified that the Department of Natural Resources and Environmental Control (DNREC) requires a large setback due to the location of the sand dune. The building was designed with a smaller footprint to better suit the lot and will meet all flood and height requirements.
10. Don Hammeke testified that he is the current owner of the Property and the proposed use will not alter the character of the neighborhood.
11. No persons appeared in opposition to the Application.
12. Three persons appeared in favor of the Application.
13. The Planning & Zoning Office received three letters in opposition to the Application.
14. The Board originally tabled the Application but rendered its decision at its meeting on January 23, 2012.

15. Based on the findings above and the testimony presented at the public hearing, the Board determined that the application met the standards for granting a variance. The Property is unique because of the sand dune, DNREC requirements, and the inability to find a buyer for single family use. The need for a variance was not caused by the Applicant. The variances sought are the minimum to afford relief and will not alter the character of the neighborhood. The proposed use is consistent with the character of the neighborhood as the area consists of primarily multi-family structures. The variance is needed to enable reasonable use of the Property.

The Board granted 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 granted. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against 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 February 21, 2012.