

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

### IN RE: NV HOMES (Case No. 11034)

A hearing was held after due notice on September 10, 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 setback requirement.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 2.9 feet from the 25 foot front yard setback requirement for an existing porch. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located east of Holland Glade Road, west of Gloucester Drive, being Lot 60 within Canal Point development; said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-1507.00. After a hearing, the Board made the following findings of fact:

1. Kenneth Yuso and Ted Roberti were present and sworn in to testify about the Application.
2. James Fuqua, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that Mr. Fuqua submitted exhibits to the Board.
4. The Board found that Mr. Fuqua stated that the rear of the Property is adjacent to open space and drops off.
5. The Board found that Mr. Fuqua stated that the development is an approved Residential Planned Community and has twenty five (25) foot front yard setback requirements.
6. The Board found that Mr. Fuqua stated that the dwelling built on this site was a new design available and that the surveyor contracted to stake the Property for the dwelling used the wrong footprint.
7. The Board found that Mr. Fuqua stated that the surveying mistake was not realized until a final placement survey was completed.
8. The Board found that Mr. Fuqua stated that the situation is unique since the Applicant has built over 135 dwellings in the development and takes every precaution to prevent setback violations.
9. The Board found that Mr. Fuqua stated that to remove a portion of the porch would destroy the appearance of the dwelling.
10. The Board found that Mr. Fuqua stated that the variance will not alter the character of the neighborhood.
11. The Board found that Mr. Fuqua stated that the Homeowner's Association and the developer have no objection to the Application.
12. The Board found that Mr. Fuqua stated that this variance request is the minimum variance to afford relief.
13. The Board found that Mr. Yuso, under oath, confirmed the statements by Mr. Fuqua.
14. The Board found that no parties appeared in opposition to or in support of 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 placement of the porch into the setback area was unintentional due to the surveying error. The Property is unique because it drops off in elevation in the rear of the lot. The variance will not alter the essential character of the neighborhood. The variance will enable

reasonable use of the Property. The requested variance is the minimum variance needed to afford relief. The variance represents the least modification possible of the regulation at issue.

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 approve. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. 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 September 25, 2012