

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: DOROTHY PALMER (Case No. 11057)**

A hearing was held after due notice on October 1, 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 side yard and rear side yard setback requirements.

Findings of Fact

The Board found that the Applicant was seeking a variance of 5 feet from the required 10 foot side yard setback requirement, a 1 foot variance from the required 20 feet rear yard setback requirement for a proposed dwelling, and an 8 foot variance from the required 10 foot side yard setback requirement for an air conditioning unit. The Applicant has requested that the aforementioned requested variances be granted as it pertains to certain real property located south of Route 54 (Lighthouse Road) west of Cleveland Avenue, being Lot 41 Block 4 within Cape Windsor development; said property being identified as Sussex County Tax Map Parcel Number 5-33-20.14-52.00. After a hearing, the Board made the following findings of fact:

1. Doug Tenly of Tenly's Home Repair testified on behalf of the Application.
2. The Board found that Mr. Tenly testified that the Applicant intends to construct a dwelling on the Property and that proposed dwelling is a Beracah home.
3. The Board found that Mr. Tenly testified that that the proposed dwelling is slightly wider than the existing manufactured home.
4. The Board found that Mr. Tenly testified that the variance will allow for off-street parking.
5. The Board found that Mr. Tenly testified that the variance will not be detrimental to public welfare and that the variance is the minimum variance to afford relief.
6. The Board found that Mr. Tenly testified that the variance will not alter the character of the neighborhood.
7. The Board found that Mr. Tenly testified that the development does not permit parking on the street.
8. The Board found that Mr. Tenly testified that the air conditioning unit can be placed on the opposite side of the Property.
9. The Board found that Mr. Tenly testified that the proposed dwelling is a standard size available and cannot be modified.
10. The Board found that Mr. Tenly testified that the proposed location of the air conditioning unit is the same side as the location of the existing unit.
11. The Board found that Mr. Tenly testified that the proposed air conditioning unit may be able to be moved to the other side of the home.
12. The Board found that no parties appeared in support of or in opposition to the Application.
13. The Board took the case under advisement and discussed the case.
14. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application, in part, met the standards for granting a variance and that the Application, in part, failed to meet the standards for granting a variance.
15. The Board approved the requested one (1) foot rear yard variance and the five (5) foot side yard variance requested for the proposed dwelling based upon the record made at the public hearing and for the following reasons. The Property is unique in size. The variance for the proposed dwelling will enable reasonable

use of the Property. The variance, if granted will not alter the essential character of the neighborhood. The variance sought is the minimum variance to afford relief.

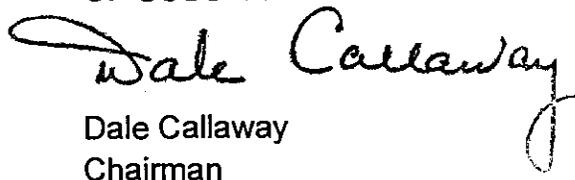
16. The Board denied the requested eight (8) foot variance for the proposed air conditioning unit based upon the record made at the public hearing and for the following reasons. The difficulty is created by the Applicant. The air conditioning unit can be placed within strict conformity of the Sussex County Zoning Ordinance.

The Board approved the variance application in part and denied the variance application in part finding that it partially met the standards for granting a variance. The Board approved the variance requests regarding the proposed dwelling but denied the variance request pertaining to the air conditioning unit.

Decision of the Board

Upon motion duly made and seconded, the Application was approved in part and denied in part. The Board Members voting to approve the Application in part and to deny the Application in part were Mr. Dale Callaway, Mr. Jeff Hudson, and Mr. Norman Rickard. Mr. John Mills voted against the Motion to Approve the Application in Part and to Deny the Application in Part.

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 November 7, 2012.