

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

### IN RE: CMH HOMES / GIL FLEMING (Case No. 11206)

A hearing was held after due notice on May 6, 2013. 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 from the side yard setback requirement.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 5.1 feet from the ten (10) feet side yard setback requirement for an existing manufactured home. The Applicant has requested that the aforementioned requested variance be granted as it pertains to certain real property located north of Road 402 (Blueberry Lane) approximately 2,000 feet west of Route 113 (DuPont Highway); said property being identified as Sussex County Tax Map Parcel Number 4-33-6.00-23.00. After a hearing, the Board made the following findings of fact:


1. Gil Fleming was sworn in to testify about the Application.
2. The Board found that Mr. Fleming testified that when placing the unit an error was made.
3. The Board found that Mr. Fleming testified that the Applicant believed that the unit could be placed 4.9 feet from the property line.
4. The Board found that Mr. Fleming testified that the survey completed after placement of the unit showed the encroachment.
5. The Board found that Mr. Fleming testified that the Property is unique in shape.
6. The Board found that Mr. Fleming testified that the Property is approximately forty (40) feet wider in the front than in the rear.
7. The Board found that Mr. Fleming testified that the existing septic system prevents the unit from being placed in a different location.
8. The Board found that Mr. Fleming testified that the septic system is a mound system.
9. The Board found that Mr. Fleming testified that the dwelling could not be rotated to fit onto the Property in compliance with the Sussex County Zoning Code and that the location of the dwelling is the only place that the dwelling could be located on the Property.
10. The Board found that Mr. Fleming testified that the dwelling is a standard size home.
11. The Board found that Mr. Fleming testified that the current owner is CMH Homes and that the sale of the Property is pending the outcome of the variance hearing.
12. The Board found that no parties appeared in support of or in opposition to the Application.
13. 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 for the following reasons. The Property is unique in shape. The variance is necessary to enable reasonable use of the Property due to the location of the existing septic system and the orientation of the dwelling. 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. Jeff 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 is not established within one (1)  
year from the date below the application  
becomes void.

Date June 18, 2013