

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CMF BAYSIDE, LLC

(Case No. 11262)

A hearing was held after due notice on September 9, 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 minimum lot width for a parcel and a variance from the minimum square footage for a parcel.

Findings of Fact

The Board found that the Applicant was seeking a variance of twenty (20) feet from the sixty (60) feet lot width requirement and a 2,500 square feet variance from the minimum 7,500 square feet lot area requirement for lots in proposed Village C, Phase 1 in Americana Bayside. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property south of Route 54 on both sides, of East Sand Cove Road (Road 394) and north and east of Williamsville Road (Road 395), being within Village C, Phase 1 Americana Bayside; said property being identified as Sussex County Tax Map Parcel Number 5-33-19.00-301.00. After a hearing, the Board made the following findings of fact:

1. Steve Marsh was sworn in to testify on behalf of the Application.
2. James Fuqua, Esquire, appeared to present the Application on behalf of the Applicant.
3. The Board found that Mr. Fuqua submitted exhibits to the Board. The exhibits included a copy of a site plan for Americana Bayside, a copy of minutes of the meeting of the Board of Adjustment for Case No. 8702, and copies of site plans for Village C, Phase 1 of Americana Bayside.
4. The Board found that Mr. Fuqua stated that Village C, Phase 1 is currently undeveloped and vacant.
5. The Board found that Mr. Fuqua stated that Americana Bayside was originally approved as a residential planned community ("RPC") in 2001 and that the development was approved for 1,700 residential units including single-family homes, duplexes, and townhouses.
6. The Board found that Mr. Fuqua stated that the development also included a commercial center, a golf course, and recreational areas.
7. The Board found that Mr. Fuqua stated that the residential areas and designated as phases and that 135 residential units are planned for Village C, Phase 1.
8. The Board found that Mr. Fuqua stated that 31 units will be villas or duplexes on 7,500 square feet lots which are permitted by the RPC approvals.
9. The Board found that Mr. Fuqua stated that 11 units will be single-family dwellings on 6,000 square feet lots which is consistent with a variance approval granted by the Board of Adjustment in 2004 in Case No. 8702.
10. The Board found that Mr. Fuqua stated that out of the proposed 135 lots in this phase, 93 lots will be no less than forty (40) feet wide and 5,000 square feet in size.
11. The Board found that Mr. Fuqua stated that the Applicant is required to have a lot width of sixty (60) feet and a lot size of 7,500 square feet for those 93 lots.
12. The Board found that Mr. Fuqua stated that the requested variances are not sought to increase density and that the variances will create additional open space in the development.

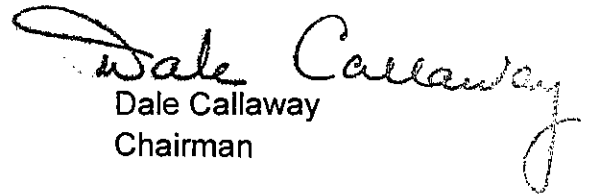
13. The Board found that Mr. Fuqua stated that Americana Bayside is analogous to a small town.
14. The Board found that Mr. Fuqua stated that the proposed dwellings for these lots are considered "patio homes" and that this style home creates a more pedestrian friendly streetscape where homes are closer to the street and the lots are smaller.
15. The Board found that Mr. Fuqua stated that the proposed patio homes will be concentrated in Village C, Phase 1 of the development.
16. The Board found that Mr. Fuqua stated that there is growing demand for this type of community.
17. The Board found that Mr. Fuqua stated that Americana Bayside is a unique development with a unique character.
18. The Board found that Mr. Fuqua stated that the Applicant decided to apply for a variance rather than an Ordinance amendment.
19. The Board found that Mr. Fuqua stated that the difficulty was not created by the Applicant.
20. The Board found that Mr. Fuqua stated that the demand of the market and limitations of the ordinance create the difficulty.
21. The Board found that Mr. Fuqua stated that the variances will enable reasonable use of the Property and that the variances will not alter the character of the neighborhood.
22. The Board found that Mr. Fuqua stated that the requested variances are the minimum variances necessary to afford relief.
23. The Board found that Mr. Fuqua stated that the Board approved a similar variance for lots in Americana Bayside that resulted in an attractive development.
24. The Board found that Mr. Marsh, under oath, confirmed the statements made by Mr. Fuqua.
25. The Board found that there were no parties present in support of or in opposition to this Application.
26. 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 Property is a Residential Planned Community, which makes it unique. The variances are necessary to enable reasonable use of the Property. The difficulty was not created by the Applicant. The variances will not alter the essential character of the neighborhood. The variances sought are the minimum variances necessary to afford relief. The variances requested represent the least modification of the regulations 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 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 October 22, 2013.