

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

**IN RE: CMH HOMES D/B/A OAKWOOD HOMES**

**(Case No. 11372)**

A hearing was held after due notice on April 7, 2014. 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 from the front yard setback requirement for a through lot.

Findings of Fact

The Board found that the Applicant was seeking a variance of twenty-four (24) feet from the forty (40) feet front yard setback requirement in both front yards for a through lot on Route 113 and Route 83. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located northeast of DuPont Boulevard (Route 113) southwest of Mitchell Road (Road 83) and northwest of Dagsboro Road (Road 334); said property being identified as Sussex County Tax Map Parcel Number 2-33-5.00-98.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters regarding to the Application.
2. Gil Fleming was sworn in to testify on behalf of the Application.
3. The Board found that Mr. Fleming submitted exhibits to the Board to review.
4. The Board found that Mr. Fleming testified that he is the general manager of the facility.
5. The Board found that Mr. Fleming testified that the lot is very unique because it is triangular shaped through lot that has two (2) front yard setbacks.
6. The Board found that Mr. Fleming testified that the setbacks and size of the lot really restrict the amount of inventory he can put on the Property.
7. The Board found that Mr. Fleming testified that the variances will allow him to display a competitive number of manufactured homes.
8. The Board found that Mr. Fleming testified that he believes the displays have encroached into the setback areas for years.
9. The Board found that Mr. Fleming testified that he recently displayed a promotional unit close to the property line and believes the complaint was in reference to that unit.
10. The Board found that Mr. Fleming testified that they could house at most nine (9) units on the Property in compliance with the setback requirements.
11. The Board found that Mr. Fleming testified that the Applicant has noticed an increase in interest in singlewide manufactured homes and would like to house seven (7) singlewide manufactured homes and nine (9) doublewide manufactured homes on the Property.
12. The Board found that Mr. Fleming testified that the units are constantly moved on and off the Property and that the Applicant does not leave houses on the Property for long periods of time
13. The Board found that Mr. Fleming testified that the oldest model has been on the lot for 450 days.
14. The Board found that Mr. Fleming testified that the use of the Property is similar to a car sales lot where inventory is sold and replenished.

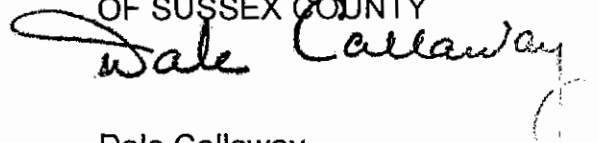
15. The Board found that Mr. Fleming testified that the uniqueness of the Property does not allow the Applicant to conform to the setback requirements.
16. The Board found that Mr. Fleming testified that it is important for the business to display a variety of units.
17. The Board found that Mr. Fleming testified that the Applicant leases the Property.
18. The Board found that Mr. Fleming testified that the Applicant would place a maximum of sixteen (16) units on the Property.
19. The Board found that Mr. Fleming testified that, due to the size of the display units, the variances will enable reasonable use of the Property.
20. The Board found that Mr. Fleming testified that an existing billboard on the Property also creates a hardship for placement of the displays because the billboard is a low billboard and the landlord does not want display units near the billboard.
21. The Board found that Mr. Fleming testified that the location of the existing sales office, parking and handicap ramp create a difficulty when placing and maneuvering the units because they limit the ability of trucks to move around the Property to move display units.
22. The Board found that Mr. Fleming testified that, if approved for the proposed variances, the displays could adhere to the setbacks.
23. The Board found that Mr. Fleming testified that the business has been on the lot since the 1980's without incident.
24. The Board found that Mr. Fleming testified that he feels the use does not substantially adversely affect the uses of the adjacent and neighboring properties but that the Applicant's business will be adversely affected if the variance request is not granted.
25. The Board found that no parties appeared in support of or in opposition to the Application.
26. Based on the findings above and the testimony and exhibits 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 unique because it is triangular in shape with a limited buildable area. The Property is also a through lot with frontage on Route 113 and Mitchell Street. The variances are necessary to enable reasonable use of the Property. The Applicant needs the variance to display its large units. The difficulty was not created by the Applicant. The variances will not alter the essential character of the neighborhood. The Applicant's business has been on the Property for many years and the Applicant has used the Property in a manner consistent with the proposed use. The variances will not be detrimental to the public welfare. The variances sought are the minimum variances 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 May 6 2014.