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BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: November 20, 2025

SUBMITTED BY: Adam Lyncha, Planning Services

ITEM TYPE: Application

AGENDA SECTION: **Public Hearing**

SUBJECT: **A-25-31** Clough
Tax Map No. 7-00-109.00-01-17.00-000

ATTACHMENTS:

[A-25-31 Clough Staff Report](#)
[A-25-31 Clough Exhibit A](#)
[A-25-31 Clough Exhibit B](#)
[A-25-31 Clough Applicant Response](#)



DEPARTMENT OF PLANNING SERVICES

STAFF RECOMMENDATION REPORT

November 20, 2025

APPLICATION: A-25-31

APPLICANT: Daniel Clough
287 Tobacco Rd.
Camden, DE 19934

OWNER: CMH Homes Inc.
5000 Clayton Rd.
Maryville, TN 37804

PROPERTY LOCATION: 287 Tobacco Rd.
Camden-Wyoming, DE 19934

NATURE OF REQUEST:

A-25-31 Daniel Clough (Owner: CMH Homes Inc.) seeks a variance from the requirement that detached accessory dwelling units shall maintain half of the principal structure's rear setback to apply for a detached accessory dwelling unit (**§101-4.C.(2) of the Kent County Code**). The property is located on the west side of Tobacco Rd., approx. 0.27 miles north of Mud Mill Rd., west of Camden. Levy Court District: 6th. Zoning District: AR. **Tax Map No. 7-00-109.00-01-17.00-000**

The applicant is requesting a variance of 6ft. to utilize an existing accessory structure for an Accessory Dwelling Unit (ADU). The required setback is 15', and the structure is 9 ft. from the rear property line.

I. STAFF RECOMMENDATION:

The Staff has reviewed the information presented by the applicant and recommends that the Board strongly consider all public testimony in making their decision. The Staff recommends **DENIAL** of the variance, based on the analysis of the four criteria from the applicant and staff as follows:

II. RESPONSE TO CRITERIA:

1. The nature of the zone where the property lies.

Applicant Response:

See attached.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential) outside the growth zone. The surrounding properties are similarly zoned AR. The property is permitted one ADU, provided the unit complies with all setbacks and other requirements outlined in Chapter 101 of the Kent County Code.

2. The character and uses of the immediate vicinity.

Applicant Response:

See attached.

Staff Response:

The character of the surrounding area is primarily residential, with some agricultural uses further west. A majority of the nearby properties are improved with single-family dwellings and accessory structures. Several of the parcels are wooded, including the parcels to the west that are used for farm fields. Further north there is a small manufactured home park. None of the nearby properties have an ADU.

3. Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties.

Applicant Response:

See attached.

Staff Response:

Removal of the setback requirement for the ADU is not likely to significantly impact the neighboring properties. There is only one adjacent parcel to the rear of the subject property, which has an existing house further south. There is also a decent amount of vegetation in the area of the structure, which provides a visual buffer between it and the neighboring property.

4. Whether failure to remove the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner's efforts to make normal improvements to the property. Economic hardship, standing alone, may justify granting an area variance and the inability to prove one's business or to stay competitive as a result of area limitations may qualify as a legitimate exceptional practical difficulty.

Applicant Response:

See attached.

Staff Response:

Failure to remove the setback requirement would not create an unnecessary hardship or exceptional practical difficulty for the applicant. There is no evidence to show that the physical condition of the property prevents the placement of an ADU that is compliant with the code requirements. The property is just under one acre in size and

is unencumbered by wetlands or other environmental factors. While the structure exists on the property, the property owner was advised that the unit required these approvals and needed to be moved to comply with the setback requirements.

This recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services. The Board of Adjustment shall give considerable weight to public testimony received during the public hearing in considering its decision.

III. ADDITIONAL INFORMATION:

- The subject site is 0.914± acres and is improved with two single-family dwellings and multiple accessory structures. There are currently two homes, as the owner is in the process of placing a new manufactured home on the property. The owner will be required to remove the old home within 30 days of the issuance of the Certificate of Occupancy for the new home.
- The proposed ADU is an existing accessory structure on the property. The Staff are concerned that the structure may not meet the building code requirements necessary for the unit to qualify as an ADU. As such, the applicant has submitted a building permit for the ADU to have the structural requirements reviewed. If the unit cannot meet the building code requirements, it will not be approved as an ADU.
- There have been no previous Board of Adjustment application on the subject site.
- There have been no Board of Adjustment applications in the surrounding area that were similar to this request.
- The applicant is advised that, should the request be granted, this does not legalize the Accessory Dwelling Unit. A Certificate of Use and building permit shall be obtained for an Accessory Dwelling Unit. For more information, contact the Planning Office at (302)-744-2471 and the Permitting Office at (302)-744-2451 between 8:00a.m. and 5:00p.m.

ENC: Exhibit A
Exhibit B
Applicant Response



KENT COUNTY

Board of Adjustment

LOCATION AND ZONING MAP

A-25-31 Exhibit A

APPLICANT: Daniel Clough

OWNER:
CMH Homes Inc.

PRESENT ZONING DISTRICT:
AR (Agricultural Residential)

PROPOSED VARIANCE:
Variance from the requirement that detached accessory dwelling units shall maintain half of the principal structure's rear setback to apply for a detached accessory dwelling unit

PRESENT USE:
Residential

PROPOSED USE:
Same with an accessory dwelling unit

LEVY COURT DISTRICT:
6th - Hertz

TAX MAP NO:
NM-00-109.00-01-17.00-000

LOCATION: Located on the west side of Tobacco Rd., approx. 0.27 miles north of Mud Mill Rd., west of Camden.

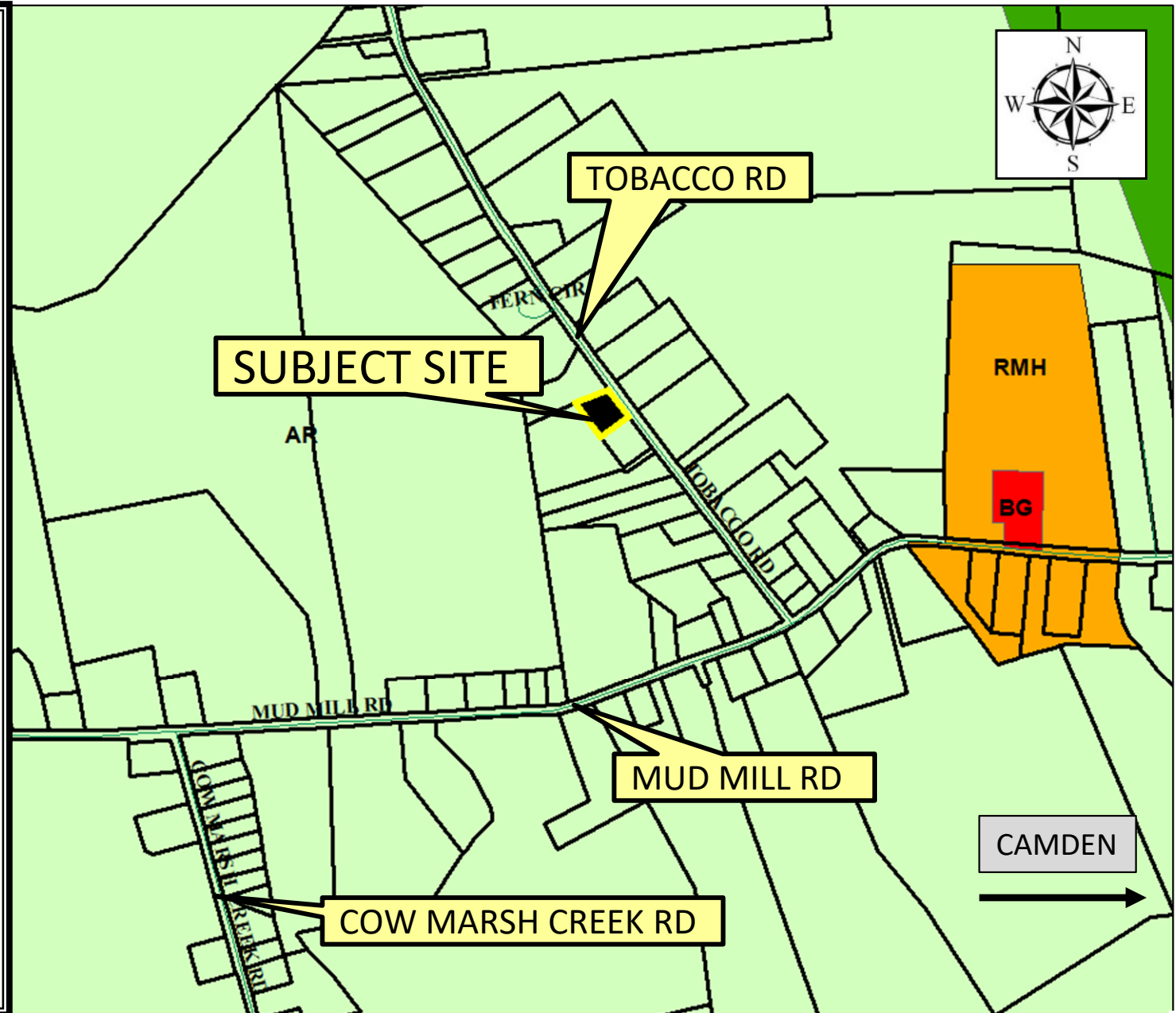
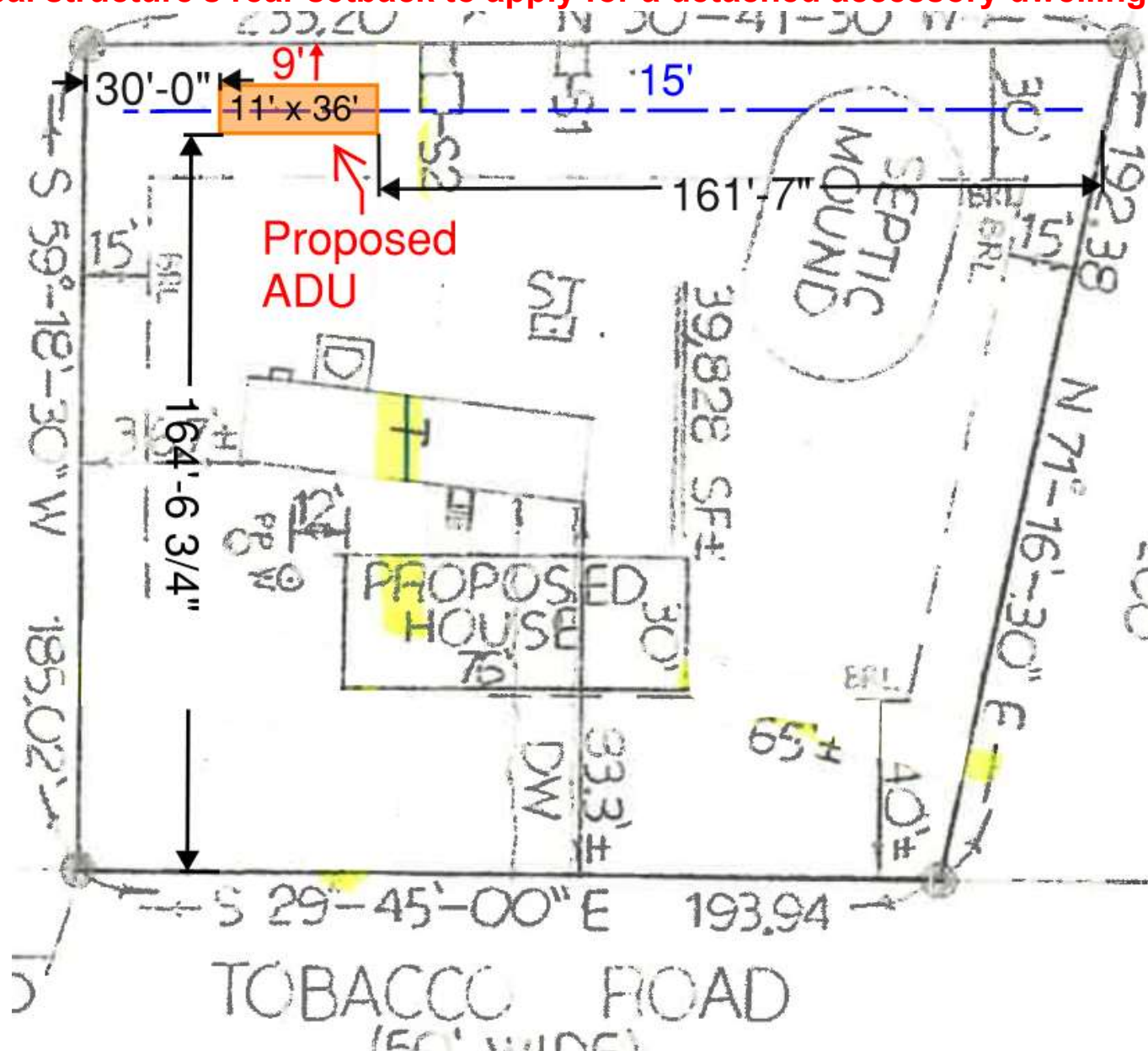


Exhibit B

Application: A-25-31
Clough (CMH Homes, Inc.)

Variance from the requirement that detached accessory dwelling units shall maintain half of the principal structure's rear setback to apply for a detached accessory dwelling unit



State Exceptional Practical Difficulty based on the following 4 criteria:

1. The nature of the zone where the property lies; 2. The character and uses of the immediate vicinity;
3. Whether removal of the restriction on the applicant's property would seriously effect the neighboring properties;
4. Whether failure to remove the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner's efforts to make normal improvements to the property. Economic hardship, standing alone, may justify granting an area variance and the inability to prove one's business or to stay competitive as a result of area limitations may qualify as a legitimate exceptional practical difficulty.

We are requesting this variance due to the hardship it would cause for moving the existing structure 6 Ft to be compliant with the code. Structure is on block foundation with tie downs installed. All utilities would have to be relocated and tied back in for this move (Elec., comms, water and sewer) also repaving will need to be done around ~~the~~ structure to assure positive drainage.