



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

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

**DATE OF PUBLIC HEARING
& DECISION:** November 20, 2025

MEMBERS PRESENT: Brian Cusick, Chairperson
Joan Denney
Temple Carter
Brauncy Jenkins
George Gallo, Jr.

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

SUMMARY OF EVIDENCE

1. The subject site is 0.914± acres and is improved with two single-family dwellings and multiple accessory structures.

2. Mr. Nick Smith, the applicant's brother-in-law, spoke in favor of the application.
3. Mr. Smith stated that the proposed ADU is on the property and they are seeking a variance of 6' to let it remain as an ADU. He explained that the unit is compliant with the electric, septic, foundation, and tie downs and that it meets all requirements for a tiny home. He added that there is positive drainage in the yard and that moving the structure would be an expensive hardship.
4. Mr. Smith explained that there are currently three homes on the property: the new house in the front, the old trailer behind it, and the proposed ADU behind the trailer. He added that the old trailer will be removed.
5. Mr. Smith stated that the applicant's mother-in-law is currently living in the proposed ADU. He explained that she had an emergency about one year ago, and they needed to find a place for her pretty quickly, so they placed the unit there for her to live in.
6. Mr. Smith said that a permit was not applied for when the unit was placed and that one was supposed to be applied for later, but this never happened. He added that this was brought to light when the new home was purchased and placed on the property. He said this was the point when he got involved and started trying to get everything in compliance.
7. Mr. Smith explained that they had a building inspector come out and inspect the proposed ADU. He stated they changed the door out to meet ADA requirements and that the unit meets all the requirements. He added that the unit is on block piers with the recommended pads underneath and that he believes they have two extra tie downs. He said they wanted to meet all the building code requirements to show good faith prior to the meeting.
8. Mr. Smith explained that there is a hedge row behind the unit that blocks the view of it from behind. He added that none of the neighbors object to anything with it.
9. Mr. Smith explained that it was placed in the current spot because it was where they could fit the truck at the time. He stated that if he knew about the 15 ft. setback at the time, he would have placed it in the proper spot, but that there are obstructions to moving it now. He said that to move it they would need to have the footers redone and hook all the electric, water, and sewer up again, as well as regrade the yard. He stated that this would take a couple of weeks to do.
10. Mr. Smith added that the unit was maybe a year and a half old. He explained that it is all upgraded and was pretty expensive. He stated that they have close to \$120,000 in the house itself and that if they had to replace the footers, it would be about five or six grand. He added that it was \$100 for the extra tie downs. He added that they would also need to find somebody to move it and reconnect everything and that the total cost would be \$20,000-30,000.
11. Ms. Mickey Hughes, who works for the property owner, spoke in favor of the application.

12. Ms. Hughes stated that Clayton Homes applied for the permit for the new home and that it was originally going to connect to the existing well and septic. She explained that during the process of placing the new home, it was brought to attention that the proposed ADU had already been connected to the existing well, septic, and electric. She added that the company was not contracted to do anything with the proposed ADU.
13. Ms. Hughes said that during the new construction, they ran into an issue with the existing septic, and it was failing. She explained that they had to go to DNREC to get a new perc test and install a new mound system on the property, which cost the applicant \$40,000-\$45,000. She stated that the new system is about 75 ft. in length and runs along the northern edge of the property.
14. Ms. Hughes added that relocating the proposed ADU would be really hard because of the location of the new and old septic system. She explained that you have to be 10 ft. from the tanks and they have to be 10 ft. from any structure. She stated that the lot was already tight to begin with and that relocating the unit would be a very tight fit, because you would have to reformat and redo all the connections to the septic.
15. Ms. Hughes said that the proposed ADU is connected to the new system, the old system has been abandoned, and they have the completion report from DRNEC. She added that they have a temporary CO for the new home because the single-wide is required to be removed within 30 days of the official CO being issued. She stated they are within that 30-day period and that the old home will be removed.
16. Ms. Hughes explained that relocating the proposed ADU would require a lot of financial manpower and that even moving it six or eight feet forward would cause issues. She added that there is really nothing behind the unit other than trees and woods and that nothing is ever going to be built back there.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Analysis of the four factors set forth in Board of Adjustment of New Castle County v. Kwik-Check Realty, Inc., 389 A.2d 1289, 1291 (Del. 1978), supports the **APPROVAL** of the requested variance.

- (1) **The nature of the zone where the property lies:** 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:** 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.

- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** 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. Additionally, no opposition was received regarding the application.
- (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:** Failure to remove the restriction would cause an exceptional practical difficulty for the applicant. The cost of relocating the structure would be significant, especially considering all the investments the applicant has made in the property, as they would have to reconnect all the utilities. Additionally, it would be difficult to relocate the structure due to the placement of the old and new septic systems and the separation distances required by DNREC.

DECISION: On a motion made by Mrs. Denney and seconded by Mr. Carter, the Board of Adjustment voted 5 in favor of the motion to **APPROVE** application A-25-31, thus granting a variance from the requirement that detached accessory dwelling units shall maintain half of the principal structure's rear setback to allow the applicant to submit an Accessory Dwelling Application for the existing structure that is 9 ft. from the rear property line, as shown on Exhibit B, attached hereto. The support of this motion was based on the exceptional practical difficulty caused by the location of the septic mounds and utilities and the cost of relocating the structure, that the improvement is within the character of the area, that the owner has improved the condition of the property, and that the unit is a good example of the use of an ADU.

NOTES:

1. The applicant is advised that any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Superior Court in and for Kent County a petition setting forth that such decision is illegal in whole or in part, specifying the grounds for the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board (9 Del. C. § 4918).
2. The applicant is advised that a certificate of use and a building permit shall be obtained for the ADU. For more information, contact the Planning Office at (302)744-2471 and/or the Permitting Department at (302)744-2451 between 8:00a.m. and 5:00p.m.
3. This variance will expire after **ONE YEAR** if a certificate of use and permit have not been submitted to the Division of Planning.

KENT COUNTY BOARD OF ADJUSTMENT



Brian Cusick, Chairperson

DECISION FILED: 12/18, 2025

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



