



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT March 16, 2017

APPLICATION: A-17-07

APPLICANTS: Susan & David Comegys
1701 Dinahs Corner Rd.
Dover, DE 19904

OWNERS: Susan C. Smith & David A. Comegys
1701 Dinahs Corner Rd.
Dover, DE 19904

PROPERTY LOCATION: 1701 Dinahs Corner Rd., Dover, DE 19904

NATURE OF REQUEST:

A-17-07 Susan & David Comegys (Owners: David A. Comegys & Susan C. Smith) seek a variance to allow an accessory structure to dominate in area the principal dwelling to enable the construction of a pole building (**Sect. 205-24.D of the Kent County Code**). The property is located on the northeast side of Dinahs Corner Rd. (Co. Rd. 165), approx. 515' southeast of Pearsons Corner Rd. (Co. Rt. 101), south of Kenton. Levy Court District: 2nd. Zoning District: AR. Tax Map No.: **ED-00-055.03-01-27.00-000**

The applicants are requesting the variance to construct a 32' x 48' detached pole building with a 10' x 48' lean to, totaling 2,016 square feet. The principal structure is a 1,344 square foot home.

I. STAFF RECOMMENDATION:

The staff has reviewed the information presented by the applicants 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 applicants and staff as follows:

II. RESPONSE TO CRITERIA:

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

Applicant Response:

Proposed building does fit where property lies.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Accessory structures are a permitted use within the zone, contingent upon meeting all size requirements as set by the Zoning Code of Kent County.

2. The character and uses of the immediate vicinity.

Applicant Response:

AR zone surrounded by Amish.

Staff Response:

The character of this area is agricultural and residential in nature. Surrounding properties are primarily residential, with some agricultural uses further removed to the north, south and east. Properties within the immediate vicinity of the subject site appear to be larger in nature, with only those directly across Dinahs Corner Rd. being of similar size.

Detached accessory structures are within the character and uses of the immediate vicinity, provided they meet the size restrictions pertaining to accessory structures within their respective zoning district. There are a number of detached accessory structures in the immediate vicinity of the subject site, most of which do not dominate in area the principal structure. Although there has been one other request similar to this in the immediate vicinity, this particular application was for the purpose of expanding a previously approved home occupation. Staff therefore does not view this application as comparable. Additionally, the subject site, at approximately 0.99± acres, is currently improved with a single-story primary dwelling and several outbuildings and is not used agriculturally. The further addition of a detached storage structure larger than the home may be viewed as excessive and would therefore be out of character with the area.

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

Applicant Response:

No effect on neighbors.

Staff Response:

The removal of this requirement may negatively affect other properties in the area as the proposed structure may appear out of character with other detached accessory structures within the surrounding area, given the size and configuration of the lot. Residential properties in this area appear to be larger than the subject site, which may lead to an undesirable trend for accessory structures to dominate in area the primary dwelling, should this request be approved. The intent of the Zoning Code is to maintain a visual scale in regards to sizing of accessory structures to dwellings. Therefore, the approval of this request may create an issue regarding a desired scale on residential properties not utilized for farming purposes throughout the rural areas

of Kent County. The Board should consider a reduction in the overall footprint of the proposed structure to remain more in character with the existing dwellings within this area.

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:

Failure to remove this restriction would cause grave hardship.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicants have the ability to alter the building design to meet the maximum allowed square footage. Additionally, the applicants have the ability to build more than one accessory building, provided the total coverage of the lot does not exceed the maximum allowed impervious surface coverage of 20% to provide adequate storage for the items as stated above.

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. APPLICATION BACKGROUND INFORMATION:

- The applicants are requesting a variance from the provision stating an accessory structure may not dominate in area, extent or purpose the principal use or structure using the definition of floor area inclusive of attached garages.
- The applicants are seeking the above referenced variance to allow the construction of a 32' x 48' detached pole building with a 10' x 48' lean to, totaling 2,016 sq. ft. The principal structure is 1,344 sq. ft.
- The subject site is 0.99+/- ac. and is currently improved with a one-story single family dwelling and several detached accessory structures.
- There are no previous Board of Adjustment applications for the subject site.
- There has been one Board application in the surrounding area similar to this request:
 - Application A-12-27, for a property located west of the subject site at 4464 Pearsons Corner Rd., was approved on 8/16/12 to allow for an accessory structure to dominate in area the principal structure. The request was to enable the construction of a 1,152 sq. ft. addition onto an existing pole building, bringing the total area to 2,283 sq. ft. The principal structure of that 2.00± acre property is 1,232 sq. ft.; however, this addition was to support a home occupation for a taxidermy business, approved through the Conditional Use process in 2002.

- The subject site is zoned AR (Agricultural Residential District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
- The applicants are advised that, should the request be granted, a Building Permit shall be obtained prior to the commencement of construction. For more information, contact the Division of Planning at (302) 744-2471 or Department of Inspections and Enforcement at (302) 744-2451 between 8:00 a.m. and 5:00 p.m.
- The applicants should also be advised that the proposed structure may be used for personal use only. Any change in use within the proposed structure may be only after receiving all necessary approvals from Kent County Planning and any other required agency.

ENC: Exhibits A & B