



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT March 16, 2017

**APPLICATION:** A-17-13

**APPLICANT:** Baynard & Sons Construction  
c/o Guy Baynard, Sr.  
303 S. Market Street  
Blades, DE 19973

**OWNERS:** Robert J. III & Joanne Donze  
109 Rodric Terrace  
Dover, DE 19901

**PROPERTY LOCATION:** 109 Rodric Ter., Dover, DE 19901

**NATURE OF REQUEST:**

**A-17-13 Guy Baynard, Sr. (Owners: Robert J. III & Joanne Donze)** seeks a variance from the minimum front setback requirement of 15 ft. to enable a handicap ramp (**Sect. 205-23.C(13) of the Kent County Code**). The property is located on the northeast corner of Rodric Ter. & Rodric Dr., being lot 18 of the Rodric Village subdivision, south of Dover. Levy Court District: 2nd. Zoning District: RS1. Tax Map No.: **ED-00-086.10-01-16.00-000**

The applicant is requesting the variance to construct an open handicap ramp 0 ft. to the front property line.

#### 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 **MODIFIED APPROVAL** 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:

The property is in a housing development.

Staff Response:

As shown on Exhibit A, the subject site is zoned RS1 (Single-Family Residential District). Handicap ramps and open decks are within the nature of this zoning district.

**2. The character and uses of the immediate vicinity.**

Applicant Response:

There is a ramp on the property so this new deck is replacing the old one, and brings it code compliant.

Staff Response:

The character of this area is residential in nature, being lot 18 of the Rodric Village subdivision. Properties to the north are residential, being part of the Wolf Creek subdivision. Properties to the south, west and east are also residential. Properties northwest are commercially developed with office complexes. There are a variety of housing styles within this area, with many having decks, porches and similar additions. Handicap ramps and open decks are within the character and uses of the immediate vicinity, provided they meet the setback requirements and are legally permitted. Although the request for a handicap ramp does appear to be of similar character to the surrounding area, the proposed orientation and configuration of the ramp does appear to be out of character. It is unclear as to the location of the front property line along Rodric Drive, and the proposed configuration, coming to the right-of-way line concerns Staff. Staff recommends that the ramp, having received no prior approvals from Kent County Planning Services, be replaced with a ramp of the same configuration in order to minimize the variance request and remain outside of the designated right-of-way area of Rodric Drive.

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

Applicant Response:

Removing restriction will not seriously affect the neighboring properties.

Staff Response:

The removal of this requirement may negatively affect other properties in the area as the proposed structure does appear to alter the site as a whole, as well as the character of the neighborhood, and may pose traffic safety concerns. While the front of the dwelling faces Rodric Terrace, the proposed ramp is to be constructed along the western side of the dwelling adjacent to Rodric Drive, which does not appear to have access from the roadway. Should the request be approved as proposed, the subdivision layout may be altered as the subject site would obtain entry from both

Rodric Drive and Rodric Terrace, and is currently only approved for entry along Rodric Terrace. The Board should consider the proposed location of the ramp in context with the use of the overall site, as the main entry to the home provides a safe and adequate space for an open handicap ramp, and may reduce possible traffic concerns stemming from the proposed location.

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 restriction will cause undue hardship due to the fact that old ramp is out of Code and falling apart.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicants have the ability to alter the location of the proposed ramp to the front of the home, which leads directly to the existing driveway. Should the applicants wish to relocate the ramp to the front door area, the handicap ramp may be as close as 15 ft. to the front property line, which does appear feasible given the proposed construction plans.

In taking into consideration all information above, Staff recommends the following options for modification:

- Relocation of the proposed ramp to a legal location at the front entry, which leads to the existing driveway;
- Maintaining the configuration of the existing ramp to alleviate the risk of the proposed structure being constructed within the right-of-way of Rodric Drive; or
- Conditional approval of the proposed ramp with an as-built survey showing that the ramp post-construction does not encroach into the right-of-way of Rodric Drive.

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 applicant is requesting a variance from the minimum required front setback for a handicap ramp of 15 ft.

- The applicant is seeking the above referenced variance to allow the construction of an open handicap ramp 0 ft. from the front property line.
- The subject site is 0.34+/- ac. and is currently improved with a one-story single family dwelling, an above ground pool with decking and several storage sheds. It does not appear that the decking, pool or storage sheds were legally placed on the property.
- There are no previous Board of Adjustment applications for the subject site and there have been no similar requests in the surrounding area.
- The subject site is zoned RS1 (Single-Family Residential District). The Comprehensive Plan recommends that this area be utilized for medium density residential purposes.
- The applicants are advised that, should the request be granted, building permits shall be obtained for the legalization of all existing structures as well as prior to the commencement of construction for the proposed ramp and decking. 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.

**ENC:** Exhibits A & B