



Kent County

Department of Planning Services

Division of Planning

SARAH E. KEIFER, AICP
Director of Planning Services

Phone: 302/744-2471
FAX: 302/736-2128

MARY ELLEN GRAY, AICP
Division Head

STAFF RECOMMENDATION REPORT

March 16, 2017

APPLICATION: A-17-09

APPLICANT/ OWNER: Wanda J. Gould (Parton)
7106 Pearsons Corner Rd.
Dover, DE 19904

PROPERTY LOCATION: 7106 Pearsons Corner Rd., Dover, DE 19904

NATURE OF REQUEST:

A-17-09 Wanda J. Parton (Owner: Wanda Jean Gould) seeks a variance from the minimum required road frontage of 150' to enable a minor subdivision (**Sect. 205-397.2.C(2) of the Kent County Code**). The property is located on the southeast side of Pearsons Corner Rd. (Co. Rd. 101), approx. 202' southwest of Dapple Gray Ln., southwest of Cheswold. Levy Court District: 1st. Zoning District: AR. Tax Map No.: **KH-00-056.01-01-15.00-000**

The applicant is requesting 128.5' ± of road frontage for each lot to subdivide the subject site into two equal sized lots.

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 **APPROVAL** 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:

None

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). The majority of the surrounding properties are zoned AR, but there are

some other properties in the area zoned RS1, which is a medium density residential district.

2. The character and uses of the immediate vicinity.

Applicant Response:
None

Staff Response:
The character of this area is residential and agricultural in nature. To the rear of the subject site is a large horse farm with a track and associated structures. To the north and south along Pearsons Corner Rd. are individual residential lots. Across the road are other homes and also an actively tilled farm. Some of these lots are under the required road frontage of 150' and would be considered legal non-conforming.

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

Applicant Response:
None.

Staff Response:
The removal of the road frontage requirement would not negatively impact the neighboring properties as other parcels in the area have similar road frontages to the proposed properties. The parcel located two lots to the south and the parcel immediately across Pearsons Corner Rd. have road frontages around 135'. The applicants' request is not substantially different in size than these lots and the lot size of 0.75 acres leaves enough space to place a home without impacting these neighboring lots.

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:
I would like to subdivide my property and need 52 ft. to meet the requirement for a family of four to have a double-wide (modular) put on $\frac{3}{4}$ of an acre. The (man) bread winner was badly hurt in a motorcycle accident that has left him disabled. He is waiting pending state disability because he cannot work. His doctors have stated he may have brain problems (PTSD, bipolar, manic depressive); a lot of brain/eye problems due to the accident and I would love to help them. The family would be an asset to me because my husband has had a stroke/brain bleed and has many disability problems and they have offered assistance and I have known them years.

Staff Response:

The failure to remove the restriction could create an exceptional practical difficulty as the property meets both the size and lot width requirements for the district and without the granting of this variance there would be no other options to subdivide this lot. The parcel is in the growth zone and if central sewer was physically at this property a variance would not be needed (the lot is currently in the sewer district).

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 seeking the above referenced variance to reduce the 150 foot minimum road frontage requirement to allow for a minor subdivision of the subject site into two parcels.
- The applicant is seeking a road frontage of 128.5 ± feet for each lot.
- The subject site is 1.5 ± ac. in size and is improved with a home and a shed.
- There is one previous Board of Adjustment application for the subject site:
 - Variance A-15-22, approved on 7/16/15, was identical to this request, for road frontage of 128.5± ft. on the subject site and a newly proposed lot to enable a minor subdivision. The variance approval has expired, leading to the applicant's reapplication.
- There has been one previous Board of Adjustment application in the surrounding area similar to this request.
 - Variance A-85-18, approved 3/21/85, was a request to vary the minimum lot frontage of 100' for a property located approx. 1600' north of the subject site on Pearsons Corner Rd. for the creation of a lot with 23.88' of road frontage.
- The subject site is zoned AR (Agricultural Residential District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
 - DelDOT provided the following comments to the application on 3/2/17: "The minor subdivision may be required to provide a combined access driveway. The combined access will have each driveway on each side of property line. The driveway location would be determined during the DelDOT review."
- The applicant is also advised that, should the request be granted, a minor subdivision shall be submitted for the creation of the lots. The minor subdivision shall be submitted within the one year timeframe of the approval of the variance. For more information, contact the Division of Planning at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A & B