



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-17-12

APPLICANT/OWNER: State of Delaware
Division of Fish & Wildlife
c/o John Clark
89 Kings Highway
Dover, DE 19901

PROPERTY LOCATION: Bayside Dr., Dover, DE 19901

NATURE OF REQUEST:

A-17-12 State of Delaware c/o John Clark, Div. of Fish & Wildlife seeks a variance from the minimum 24' two-way drive aisle width and interior planting requirements to enable a boat ramp and improvements (**Sect. 205-221.B(1) & 205-224.B of the Kent County Code**). The property is located on the east side of Bayside Dr. (DE Rt. 9), approx. 54' north of S. Little Creek Rd. (Co. Rd. 67), southeast of Little Creek. Levy Court District: 3rd. Zoning District: BG/AC. Tax Map No.: **ED-00-078.00-01-08.00-000**

The applicant is requesting the variances in order to construct site improvements, including a two-way drive aisle 12' in width, and to eliminate interior planting requirements within the parking area. These requirements include:

- a. Planting islands of at least eight feet by 18 feet for each 10 spaces or fraction thereof.
- b. Planting areas of at least six feet by 18 feet at the end of each row.
- c. Planting strips at least six feet wide running the length of a perimeter row if the row does not abut a planted area

II. 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 the following:

- **APPROVAL** of the request from the minimum 24' width of a two-way drive aisle, and
- **MODIFIED APPROVAL** of the variance request to eliminate interior planting

areas within the parking area.

These recommendations are based on the analysis of the four criteria from the applicant and staff as follows:

III. 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 both AC (Agricultural Conservation District) and BG (General Business District). Boat ramps and similar uses are to be expected within both of these districts.

2. The character and uses of the immediate vicinity.

Applicant Response:

See attached

Staff Response:

The character of this area is primarily commercial and residential. Properties to the north are within the town of Little Creek, while properties to the east and west are undeveloped marshlands. Properties directly to the south are developed residentially, and properties to the southwest are both commercially and residentially developed. The subject site is within a waterfront community abutting Little Creek so the development of the property into a commercial boat ramp and dock does appear to be in character with the surrounding area. As the proposed use of the property typically involves the maneuvering of longer than average length vehicles with trailer attachments, it may be typical to see parking areas with limited landscaping to alleviate traffic maneuverability issues. Therefore, Staff recommends the applicant relocate the required landscaping in more optimal locations, without the further disturbance of any designated wetlands.

The proposed development includes a separate dock specifically for first responders during emergency situations, which will be separate from the main parking area. As this dock is to be used for this specific use and by specific users only, the establishment of a one-way drive aisle into and out of this area may be viewed as in character, as two-way traffic is not anticipated.

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

Applicant Response:

See attached

Staff Response:

The reduction of the two-way drive aisle width may not negatively affect other properties in the area, as the as this particular request is for an interior drive aisle specific to the subject site and is not the main source of access to the property. All other drive aisles to be used by the general public appear to meet Code requirements. Additionally, the site itself, being along a watershed area, should retain as much natural area as possible and minimize impervious surface coverage. The installation of additional pavement, therefore, may be of detriment to the environment as a whole.

Similarly, the removal of all planting requirements within the parking area may not negatively impact neighboring properties. However, the development of a vacant property into a commercial use of any type should meet landscaping requirements in order to maintain the integrity of commercial development within Kent County. Staff recommends the installation of all landscaping requirements, but in more feasible locations to maintain the flow of traffic and all environmental aspects of the site.

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:

The failure to reduce the required drive-aisle width may not cause an exceptional practical difficulty as it appears that there is sufficient area to widen the proposed 12 ft. aisle. It does appear that the applicant has the ability to redesign this area in order to meet Code requirements, and the reduction may be viewed as a matter of convenience.

In contrast, the failure to remove the landscaping requirements within the designated parking areas may cause an exceptional practical difficulty based on the types of vehicles that are typically found at commercial boat ramps. As parking areas are typically designed within these uses to allow for easier maneuverability of longer vehicles towing recreational boats and vessels. Should the request be approved, Staff recommends that plantings requirements be relocated to more feasible locations within the site, but outside of any designated wetlands areas.

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

- Approval of the request to reduce an interior two-way drive aisle from 24 ft. to 12 ft., and
- Modified approval of the request to eliminate interior landscaping within the parking areas containing 10 or more spaces. All landscaping requirements, including any and all tree planting requirements and underplantings as stated in Sect. 205-224.C based on the requirements of Sect. 205-224.B, shall be

relocated to other locations within the site, without the further disturbance of designated wetlands areas. These requirements shall be in addition to any and all landscaping requirements as part of the site plan approval in Chapter 187 of the Kent County Code.

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.

IV. APPLICATION BACKGROUND INFORMATION:

- The applicant is requesting the variance from the minimum 24' two-way drive aisle width and interior planting requirements.
- The applicant is seeking the variances to construct a commercial boat ramp with site improvements, including a 12' two-way drive aisle, eliminating all interior landscaping requirements within the parking area.
- The subject site is 2.97± ac. and is currently unimproved.
- There have been no Board applications on the subject site, nor any similar requests in the surrounding area.
- The subject site is zoned both AC (Agricultural Conservation District) and BG (General Business District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes and highway commercial purposes.
- The applicant is advised that, should the requests be granted, final site plan approval is required prior to the issuance of any building Permits and/or the commencement of any construction. 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
Supplemental information from applicant at time of submission