



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT April 20, 2017

APPLICATION: A-17-16

APPLICANT/OWNER: Milford Housing Development Corp.
977 E. Masten Circle
Milford, DE 19963

PROPERTY LOCATION: Lot 22 Harmony Hill, Dover , DE 19934

NATURE OF REQUEST:

A-17-16 Milford Housing Development Corp. seeks a variance from the minimum side setback requirement of 10 ft. to enable the construction of a single-family dwelling (**Sect. 205-129.A(3) of the Kent County Code**). The property is located on the southwest side of Harmony Hill Dr., approx. 32' from Rollin Ct., being lot 22 of the Harmony Hills subdivision, east of Camden. Levy Court District: 5th. Zoning District: RMH. Tax Map No.: **NM-00-103.07-03-22.00-000**

The applicant is requesting the variance to enable the construction of a single-family dwelling 8.6± from the eastern side property line.

I. 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 as well as the request itself 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:

RMH – Residential Manufactured Home

Staff Response:

As shown on Exhibit A, the subject site is zoned RMH (Residential Manufactured

Home District). Surrounding properties are zoned similarly. Single-family dwellings are within the nature of the zoning district.

2. The character and uses of the immediate vicinity.

Applicant Response:

Residential.

Staff Response:

The character of this area is residential in nature, being lot #22 of the Harmony Hill subdivision. Surrounding properties are developed residentially or are in the process of development with a variety of housing styles. As the subject site is within an approved subdivision, the proposed home does appear to be in character with neighboring homes. However, Staff recommends that the home layout be altered slightly to comply with Kent County Code requirements.

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

Applicant Response:

The removal of the restriction would not seriously affect the neighboring properties.

Staff Response:

The reduction of the 10 ft. side setback requirement may not negatively impact neighboring properties, given the home to the east is currently under construction and is owned by the developer. Therefore, any future property owners should be made aware of any reductions in side setback requirements should the Board choose to approve the application. Additionally, the proposed placement of the home does appear to maintain the required setback to the western side property line, which preserves an existing sewer easement.

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 the restriction would make it difficult to find a compatible home design to accommodate. The smallest house design currently will not place because of sewer setback. A new design would have to be produced at great expense. The existing County easement is currently more than the normal 10 ft.; it is 12.5'. The additional 1.5' causes us to push our house to the left, causing the need for the variance.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicant does have the ability to alter the proposed home design to accommodate a 34.5 ft. wide home. However, Staff recommends the Board strongly considering the requirements for an exceptional practical difficulty as follows prior to rendering a decision:

“The hardship must be created by the unique physical characteristics of the property, and not by the real or perceived inconvenience of the property owner.”

As there are areas within the property that may provide a legal location for an alternate design, the convenience of utilizing a previously used design may be viewed as a perceived inconvenience of the property owner and is thereby self-imposed.

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 the variance from the required 10 ft. side setback requirement to enable the construction of a single-family dwelling 8.6± ft. from the side property line.
- The subject site is 0.14± ac., being lot #22 of the Harmony Hills subdivision, and is currently unimproved.
- There are no previous Board of Adjustment applications for the subject site and no similar requests in the surrounding area.
- The subject site is zoned RMH (Residential Manufactured Home District). The Comprehensive Plan recommends that this area be utilized for medium density residential purposes.
- Correspondence was received from DeIDOT indicating that they have no comments pertaining to this application at this time.
- 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.

ENC: Exhibits A & B