



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT June 15, 2017

**APPLICATION:** A-17-27

**APPLICANTS/OWNERS:** Andrew Anthony Jr. & Agnes R. Carrano  
74 Hidden Valley Drive  
Dover, DE 19904

**PROPERTY LOCATION:** 74 Hidden Valley Dr., Dover, DE 19904

**NATURE OF REQUEST:**

**A-17-27 Andrew Anthony Jr. & Agnes R. Carrano** seek a variance from the maximum height of 4' for fencing within a front yard setback to enable a 6' fence (**Sect. 205-24.E of the Kent County Code**). The property is located on the west side of Hidden Valley Dr., approx. 319' west of Cahoon Branch Rd., located within the Goldsboro subdivision, west of Dover. Levy Court District: 2<sup>nd</sup>. Zoning District: AR. Tax Map No.: **WD-00-075.01-01-10.00-000**

The applicants are requesting the variance to enable the placement of a 6 ft. high fence to the front 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. The staff recommends **DENIAL** of the variance request, 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:

See attached

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Surrounding properties are also zoned AR, being part of the Goldsboro subdivision. Residential fencing is within the nature of the AR zoning district, contingent upon meeting all setback requirements.

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

Applicant Response:

See attached

Staff Response:

The character of the surrounding area is primarily residential. The majority of lots in the immediate vicinity are developed, some within the Goldsboro subdivision and others outside of this development along Forrest Avenue. Although fencing may be viewed as in character with residential development, the placement of privacy fencing 6 ft. in height within a front yard area is not in character with the immediate vicinity as it appears that most properties within this area either do not have fencing or have fencing that appears to be lower in height.

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

Applicant Response:

See attached

Staff Response:

The removal of the restriction prohibiting 6 ft. high fencing within a front yard setback may not negatively affect neighboring properties in the area as it appears that the subdivision street, Hidden Valley Rd., does not connect with Forrest Ave. Therefore, it appears that the removal of this restriction may not impede the vision of passing traffic.

**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 remove the restriction as requested may not create an exceptional practical difficulty as the applicants have the ability to place a fence with an overall height of 4 ft. within their front yard setback, up to the right-of-way. Although the applicants are stating that fencing 6 ft. in height will be a deterrent for trespassing and will increase security, it is unclear how this will impact foot and vehicle traffic, given the disconnect of Hidden Valley Rd. from Forrest Ave. Staff urges the Board to consider the qualifying criteria for variance approval, as it appears that the inability of the applicants to place a 6 ft. high fence within the front yard setback area may not be attributed to unique characteristics of the lot, but instead the perceived hardship of the applicants.

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 seeking the above referenced variance to remove the restriction prohibiting fencing above 4 ft. in height within the front yard setback area.
- The applicants are proposing to construct fencing 6 ft. high within the front yard setback area, up to the front property line.
- The site is 0.80± acres in size and is currently improved with a two story single-family dwelling.
- Variance A-12-29, for the subject site, was approved on 8/16/12 to reduce the front setback requirement of 40 ft. to 28 ft. to enable the construction of a single-family dwelling.
- There are no previous Board applications similar to this request within the immediate vicinity.
- The subject site is zoned AR (Agricultural Residential District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
- DeIDOT has submitted that they have no comments 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 Inspections and Enforcement at (302) 744-2451 between 8:00 a.m. and 5:00 p.m.

#### **ENC: Exhibits A & B**

Supplemental information regarding variance criteria, submitted with application

Pictures of subject site

Letter of no objection from Dover Fire Dept., dtd. 4/24/17

MapQuest directions to property submitted by applicant

Deed for property, dtd. 10/31/75

Letter in support from C. Focht, dtd. 4/26/17

Letter in support from D. Williams, dtd. 4/21/17

Letter in support from T.A. Martin-Summers, dtd. 4/26/17

Letter in support from J.S. Martin, dtd. 4/27/17