



Department of Planning Services
Division of Planning

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STAFF RECOMMENDATION REPORT
July 20, 2017

APPLICATION: A-17-32

APPLICANT: Carl H. Eierman
3674 Underwoods Corner Rd.
Clayton, DE 19938

OWNERS: Carl H. & Sheryl D. Eierman
3674 Underwoods Corner Rd.
Clayton, DE 19938

PROPERTY LOCATION: 3718 Underwoods Corner Rd., Clayton, DE 19938

NATURE OF REQUEST:

A-17-32 Carl H. Eierman (Owners: Carl H. & Sheryl D. Eierman) seeks a variance from the minimum road frontage requirement of 200 ft. to enable a minor subdivision (**Sect. 205-54.A(1) of the Kent County Code**). The property is located on the southeast side of Underwoods Corner Rd. (Co. Rd. 94), approx. 1,748' southwest of Bryn-Zion Rd. (Co. Rd. 139), north of Kenton. Levy Court District: 1st. Zoning District: AC. Tax Map No.: **KH-00-035.00-01-41.03-000**

The applicant is requesting the variance to enable a minor subdivision plan submittal to create a lot with 176± ft. of road frontage.

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 AC (Agricultural Conservation

District). Surrounding properties are similarly zoned AC.

2. The character and uses of the immediate vicinity.

Applicant Response:

See attached

Staff Response:

The character of the surrounding area is primarily agricultural with some residential development. The majority of lots in the immediate vicinity are developed residentially with a variety of housing styles, on sites primarily of similar size to the subject site or larger. Smaller parcels created through the administrative minor subdivisions process may be anticipated in this area; however, it appears that the majority of parcels in this area do meet the required 200 ft. road frontage requirement for this particular zoning district.

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 may not affect neighboring properties as there is no additional residential development is proposed with the creation of the proposed lot. However, reductions of this requirement granted by the Board should be weighed carefully as additional approvals may result in a detrimental impact on the characteristics of newly created parcels throughout Kent County that has been established by the Levy Court.

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 improve 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 does not appear to create an exceptional practical difficulty as the applicant is able to create a new lot legally with the establishment of a private road that would not necessitate a variance approval. The establishment of a private road may be done through the administrative process of a minor subdivision, and allows for the applicant to create additional road frontage for those parcels lacking the required road frontage alternately while creating a new subdivided lot. Therefore, it appears that, based on there being alternative options available, the exceptional practical difficulty may be a perceived hardship and not one based on a unique characteristic of the subject site.

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 required road frontage for parcels within the AC zoning district, located outside of the growth zone, which is currently 200 ft.
- The applicant is seeking this reduction to enable the submittal of a minor subdivision plan creating a new lot with road frontage of 176± ft.
- The site is 20.0± acres in size and is currently improved with a one-story single family dwelling located on the western portion of the subject site and an additional one-story single family dwelling on the southeastern portion of the subject site, with several accessory structures.
- There have been no previous Board applications on the subject site prior to this request.
- There has been one Board application similar to this request within the immediate vicinity, impacting three separate parcels:
 - A-84-124 for properties to the north of the subject site, known as 3845 Underwoods Corner Rd., 3799 Underwoods Corner Rd., and 3785 Underwoods Corner Rd., was approved on 12/20/84 to reduce the required the road frontage from 150 ft. to create three new parcels with frontage of 109 ft., 116 ft., and 25 ft., respectively. The reason for approving stated that the situation was created by a death.
- The subject site is zoned AC (Agricultural Conservation District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
- DelDOT has submitted the following comments:
 - *“DelDOT records indicate that Underwoods Corner Road’s functional classification is a local road requiring 30’ of right-of-way from the centerline of the road. Local Road standards require driveway spacing to be a minimum of 150 feet.”*
- The applicants are advised that, should this request be approved, a Minor Subdivision Plan must be submitted to Kent County Planning Services for review and approval. For more information, contact Planning Services at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A & B