



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

STAFF RECOMMENDATION REPORT August 17, 2017

APPLICATION: A-17-33

APPLICANT/OWNER: Henry W. Austin III
1929 Westville Rd.
Marydel, DE 19964

PROPERTY LOCATION: 1929 Westville Rd., Marydel, DE 19964

NATURE OF REQUEST:

A-17-33 Henry W. Austin III seeks a variance from the provision prohibiting accessory structures to dominate in area the principal dwelling to enable the construction of an accessory structure (**Sect. 205-24.D of the Kent County Code**). The property is located on the northwest side of Westville Rd. (Co. Rd. 206), approx. 906' southwest of Parkers Chapel Rd. (Co. Rd. 224), south of Hartly. Levy Court District: 6th. Zoning District: AR. Tax Map No.: **WD-00-099.00-01-24.03-000**

The applicant is requesting the variance to enable the construction of a detached, one-story 30'x40' pole building, totaling 1,200 sq. ft. in floor area. The existing dwelling is 980 sq. ft. in total floor area.

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:

The area I live in is agriculture and residential and is sparsely populated.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Surrounding properties are similarly zoned AR. Accessory structures are within the nature of the zone.

2. The character and uses of the immediate vicinity.

Applicant Response:

The properties that surround me are very similar and most have large building for various uses.

Staff Response:

The character of the surrounding area is both agricultural and residential. Surrounding properties are developed residentially with a variety of housing styles, on sites primarily of similar size to the subject site or larger. Detached accessory structures do appear to be prevalent in this area; however, it appears that a majority of accessory buildings in this area are compliant with the provision restricting sizes to not exceed total floor area of the principal dwelling. There are exceptions to this, but it appears that existing buildings dominating the principal dwelling in this area are typically used agriculturally. The subject site does not appear to be agricultural, nor does the purpose stated appear to be agricultural in nature. Therefore, the proposed structure, being larger than the existing home, does not appear to be in character with other residential accessory structures in this particular area.

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

Applicant Response:

I have spoken to all of my neighbors and all have agreed that there would be no adverse effect to them or their properties, and have given their approval for the construction of my building.

Staff Response:

The removal of the restriction may not affect neighboring properties as it appears that the addition of the proposed structure does not encroach into any required setback areas, nor does it appear to exceed the maximum allowable impervious surface coverage for the subject 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 improve one's business or to stay competitive as a result of area limitations may qualify as a legitimate exceptional practical difficulty.

Applicant Response:

The reason I need a building this size is for a garage large enough to store four vehicles. These vehicles are collector cars, two of which have been in my family for a very long time. This garage would properly preserve the integrity and the value of these vehicles.

Staff Response:

The failure to remove the restriction does not appear to create an exceptional practical difficulty as the applicant is able to construct a smaller accessory building that meets legal requirements, supplementing an existing 3-car garage that currently provides

768 sq. ft. of storage space for the applicant. By minimally reducing the proposed structure to a 24'x40' building, the applicant would gain an additional 960 sq. ft. of storage space, while meeting all size requirements and maintaining the original depth proposed by the applicant. Although the proposed structure may be viewed as a normal improvement, there does not appear to be a hardship stemming from a unique physical characteristic of the property necessitating approval of the variance request, but rather the perceived inconvenience of the property owner.

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 enable the construction of a detached accessory structure that would dominate in area the principal structure.
- The applicant is seeking this reduction to construct a 30'x40' one-story pole building, totaling 1,200 sq. ft. in floor area.
- The site is 1.3± acres in size and is currently improved with a 14'x70' manufactured home and a 32'x24' detached garage.
- There have been no previous Board applications on the subject site prior to this request and no 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.
- The applicants are advised that, should this request be approved, a building permit must be obtained from the Division of Inspections and Enforcement prior to the commencement of construction. For more information, contact their office at (302)744-2451 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A & B