



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-17-34

APPLICANT: Thomas J. Hartley
1338 Lochmeath Way
Dover, DE 19901

OWNER: Diamond Limited Peachtree, LLC
3566 Peachtree Run
Dover, DE 19901

PROPERTY LOCATION: 3566 Peachtree Run, Dover, DE 19901

NATURE OF REQUEST:

A-17-34 Thomas J. Hartley (Owner: Diamond Limited Peachtree, LLC) seeks a variance from the required screening requirements for parking areas and interior planting areas for single row parking to enable a site plan application (**Sect. 205-224.A.(4) & 205-224.B.(1) of the Kent County Code**). The property is located on the east side of Peachtree Run (Co. Rd. 105), approx. 378' south of Harmony Hill Dr., east of Camden. Levy Court District: 5th. Zoning District: BG. Tax Map No.: **NM-00-094.00-02-43.00-000**

The applicant is requesting the variance to eliminate screening requirements and required planting islands in an existing and proposed parking area at an existing contractor's establishment in order to enable a Conditional Use with Site Plan application. Pursuant to Sect. 205-224A(4), all off-street parking areas must be screened with either a 6 ft. opaque fence with landscaping or a mixture of landscaping materials expected to reach maturity of 6 ft. within a three year period.

Pursuant to Sect. 205-224B, each off-street parking area with 10 or more spaces shall contain planting islands for each 10 spaces or fraction thereof, and planting areas at the end of each row.

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 to eliminate screening requirements and **APPROVAL** of the variance request to eliminate interior parking islands, 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:

No applicant response provided.

Staff Response:

As shown on Exhibit A, the subject site is zoned BG (General Business District). Surrounding properties are zoned BG, RS1 (Single Family Residential District), and RMH (Residential Manufactured Home District). Contractor's establishments are within the nature of the BG zoning district, upon receiving all necessary approvals from Kent County Levy Court through the Conditional Use with Site Plan application process.

2. The character and uses of the immediate vicinity.

Applicant Response:

No applicant response provided.

Staff Response:

The character of the surrounding area is both commercial and residential. Properties to the south and east appear to be developed and utilized commercially. Properties to the north appear to be residentially developed, while properties to the east are to be developed residentially as part of the Seabrook Village subdivision. While commercial development is to be anticipated along Peachtree Run, given its classification of a major roadway and proximity to other commercial development in this section of the US Rte. 13 corridor, the subject site is required to screen parking areas in order to provide buffering between compatible commercial and residential uses. Similarly, the requirement to provide landscaped areas at the ends of rows of parking and interior landscaping areas is to establish and maintain a minimal commercial standard in site development planning, contributing to more pleasing aesthetics and supporting any stormwater areas needed throughout the site.

Based on existing commercial development in the immediate vicinity, Staff recommends the denial of the elimination of the screening requirement as it appears the majority of surrounding development does meet Code requirements for the screening of off-street parking areas for consistency in character. However, given the site constraints on the subject site and lack of landscaping for parking rows containing ten or more parking spaces in other nearby commercially developed properties, Staff recommends approval of the elimination of this variance request.

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

Applicant Response:

No applicant response provided.

Staff Response:

The removal of the restriction to screen the existing and proposed parking areas may

negatively affect neighboring properties given the intent behind this Code provision is to provide a buffer from neighboring uses. As the parking areas within the subject site are adjacent to both commercial and residential development, the implementation of this buffer may alleviate any incompatibility between existing and future uses.

In contrast, the removal of the restriction for landscaping islands and areas within rows containing ten spaces or more does not appear to affect neighboring properties, as the requirement would impact only the design of the subject site. Given the existing and proposed development of this site and the parking areas, the elimination of this requirement appears to work only to increase maneuverability throughout the site for staff members and visitors.

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:

205-224A: Approximately one half of the length of our south side parking has an existing fence; the remaining portion adjoins the neighboring property, which has an existing fence with privacy slats (see attached photos). Because of this, we proposed waiving the buffer requirements along this property line since a buffer here does not effectively add to the concealment of the parking from view or increase the aesthetic qualities of the parking as seen from neighboring properties.

205-224B: The existing parking (both gravel and paved) is large enough to meet parking requirements for both the existing building and the proposed garage. Therefore, since the lot is existing, sufficiently sized for the new parking, and outside the envelope of the proposed construction, we proposed waiving the requirement to modify the parking area by adding islands as shown in our landscape plan (Exhibit C). Furthermore, the islands would create a hazard for the large trucks, which use the lot to access the rear fenced area as part of the operation of our business.

Staff Response:

The failure to remove the restriction for screening and buffering from parking areas does not appear to create an exceptional practical difficulty as the applicant is able to implement a combination of fencing with landscaping to meet this requirement as demonstrated on Exhibit C, supplied by the applicant. Therefore, this request does not appear to be required, but rather the perceived inconvenience of the applicant.

However, the failure to eliminate the requirement for landscaping areas throughout the existing and proposed parking areas does appear to create an exceptional practical difficulty for the applicant, given the area constraints between the parking area and the existing building. Should the Board deny this request, the applicant may be faced with ingress and egress issues, given the nature of their business and the larger trucks and equipment stored in the rear of the property, which may force the applicant to forego a required process to legalize their existing business.

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 variances to eliminate parking screening and landscaping requirements to enable the submittal of a Conditional Use with Site Plan application.
- The site is 2.7± acres in size and is currently improved with single story commercial building, a wooden shed, and a manufactured home used as a contractor's establishment. The purpose of the proposed Conditional Use with Site Plan application is to legalize this existing business.
- The existing shed and manufactured home are to be demolished and replaced with a single story 60'x100' commercial building, upon receipt of final approval through Kent County Levy Court and Planning Services.
- A-99-31 on the subject site was approved on 5/20/1999, granting relief from the provision prohibiting more than one principal use or structure on a site to enable the construction of a mini storage building, which was not constructed.
- There have been no previous Board applications similar to this request within the immediate vicinity.
- The subject site is zoned BG (General Business District). The Comprehensive Plan recommends that this area be utilized for highway commercial purposes.
- The applicant is advised that, regardless of the outcome of these requests, a Conditional Use with Site Plan application must be submitted to Kent County Planning Services. For more information, contact Kent County Planning Services at (302)744-2471 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A – C
Photos submitted by applicant at time of submittal