

Kent County



Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT October 19, 2017

APPLICATION: A-17-38

APPLICANTS/OWNERS: Phineas A. & Joyce Ann Yoder
615 Central Church Road
Dover, DE 19904

PROPERTY LOCATION: 615 Central Church Rd., Dover, DE 19904

NATURE OF REQUEST:

A-17-38 Phineas A. & Joyce Ann Yoder seek a variance from the side setback requirement of 15' and the setback requirement of 30' beyond the rear elevation of the main dwelling to enable to the construction of an accessory building for a home-based contractor establishment (**Sect. Sect. 205-397.7A(7)(b) of the Kent County Code**). The property is located on the northwest side of Central Church Rd. (Co. Rd. 155), approx. 3,246' east of Pearsons Corner Rd. (Co. Rd. 101), west of Dover. Levy Court District: 2nd. Zoning District: AR. Tax Map No.: **ED-00-056.00-01-03.00-000**

The applicants are requesting the variance to construct a 76' x 38' detached accessory structure 6 ft. from the side property line, and no closer to the front property line than the existing dwelling. The intent of the applicants is to use this proposed structure for a Home-Based Contractor Establishment, no outdoor storage, pending receiving approval from Kent County Planning Services.

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 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:

Is next to farm land use.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Detached accessory structures used for Home-based contractor establishments, no outdoor storage, are within the nature of the zoning district, contingent upon meeting all requirements of Sect. 397.7 of the Kent County Code.

2. The character and uses of the immediate vicinity.

Applicant Response:

Would be to load and unload work vans.

Staff Response:

The character of this area is primarily residential and agricultural in nature. Properties to the west and south appear to be residentially developed, while properties north and east appear to be mainly undeveloped agricultural lands or developed with chicken houses. Approved home-based contractor establishments may have the ability to dominate in area the principal dwelling, dependent on the total lot size. However, the setback requirements for this type of use were established in order to maintain a certain scale on the property. As the primary use of the property is for residential purposes, the placement of the building in its proposed location may cause the structure to appear out of scale with this intended use and other residential properties in the area. Therefore, Staff recommends the Board strongly consider this request and the intent of setback requirements for this provision as set by the Levy Court.

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

Applicant Response:

No

Staff Response:

The removal of this requirement may not negatively affect other properties in the area as the proposed structure does appear to meet all other requirements of a Home-based contractor establishment, no outdoor storage.

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:

It would make difficult to building square footage needed to accommodate to be able to back van and trailer in.

Staff Response:

The failure to remove the setback requirements would not create an exceptional practical difficulty as the applicant does have the ability to construct the proposed building in a legally compliant location of 15 ft. from the side property line and 30 ft. to the rear of the principal dwelling. As there appear to be alternative options available, it appears that any hardship may be a perceived hardship of the owner and not one unique in circumstance due to the property itself.

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 requesting a variance from the required setbacks for a Home-Based Contractor Establishment, no outdoor storage, requiring 15 ft. from the side property line and placement a minimum of 30 ft. beyond the rear elevation of the main dwelling on the premises.
- The applicants are proposing to construct a 76' x 38' building 16 ft. beyond the front of the existing dwelling, 6 ft. from the eastern side property line. The proposed structure does meet size requirements of a Home-Based Contractor Establishment, no Outdoor Storage, which limits the proposed structure to no more than 5% of the total lot size.
- The subject site is 1.3595± ac. and is currently improved with a two-story single-family dwelling and two detached accessory structures.
- There are no previous Board of Adjustment applications for the subject site and there have been no similar requests in the surrounding area.
- The subject site is zoned AR (Agricultural Residential District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
- DelDOT submitted that they have no comments in regards to this application at this time.
- The applicants are advised that, should the request be granted, application for a Home-Based Contractor Establishment, no Outdoor Storage, must be made to the Department of Planning Services prior to the issuance of any building permits. For more information, contact the Department of Planning Services at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A & B