


Kent County

Department of Planning Services
Division of Planning

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STAFF RECOMMENDATION REPORT
January 18, 2017

APPLICATION: A-18-02

APPLICANT / OWNER: John & Danielle Wetherall
7 Springwood Dr.
Dover, DE 19904

PROPERTY LOCATION: 7 Springwood Dr., Dover, DE 19904

NATURE OF REQUEST:

A-18-02 John & Danielle Wetherall seek variances from the required front setback of 40 feet and the side setback of 15 feet to enable the construction of an attached garage (**Sect. 205-216A(1) of the Kent County Code**). The property is located on the north side of Springwood Dr., approx. 178' west of E. Huntington Cir., being lot 88 of the Hidden Acres subdivision, west of Dover. Levy Court District: 6th. Zoning District: AR. Tax Map No.: **WD-00-074.04-01-88.00-000**

The applicants are requesting the variances in order to construct a 28' x 40' attached garage with a 4' x 3' attached portico 2 ft. ± to the side property line and 31 ft. to the front property line.

I. STAFF RECOMMENDATION:

The staff has reviewed the information presented by the applicants 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:

The pole building would reside on the northern side of the property in Hidden Acres Development.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Attached garages are permitted in this zoning district, contingent on meeting the required principal setbacks Sect. 205-216A(1) of the Kent County Code.

2. The character and uses of the immediate vicinity.

Applicant Response:

The northern side of the property is an open area that comes off the side of the house. The northern side of the property is only location that would be accessible from the driveway so that we can pull the cars into the pole building.

Staff Response:

The character of this area is residential in nature, as it is located within the Hidden Acres subdivision. A number of the lots in this subdivision are considered legal nonconforming, as they fail to meet today's bulk and area standards. Attached garages appear to be prevalent in the surrounding area; however many appear to meet the required principal setbacks and are smaller in size. Despite the nonconforming of many of the lots in the subdivision, the majority of surrounding homes with garages appear to be code compliant.

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

Applicant Response:

This variance wouldn't affect the neighbor's property secondary to it being on the side of his house that he doesn't use. The northern side of the neighbor's house doesn't have windows (as not to obstruct his view). Also this would not interfere with his front or back yard.

Staff Response:

Granting of the side setback request may have a negative impact on the neighboring properties more so than the front setback request, as the proposed structure is unable to maintain a sufficient distance to the eastern side property line for easy maneuverability and maintenance around the proposed structure without entering the bounds of the neighbor's property.

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:

Failure to remove the restriction would not create a hardship since this would be for my home use and not for any business purposes. This truly is the only area on the property that the pole building could function as a garage. On the northern side of the property there is already an existing driveway so that we may access the pole building with our vehicles. On the southern side of our property the pole building be obstructing my neighbor's view and make it difficult to access our back yard. We are unable to place the building on the western side of the property (back yard) secondary to not being able to access it with our vehicles. In addition to not being able to drive on to the western side of our property we are also limited due to our septic system and in-ground pool. There are also already existing residents in our neighborhood that have filed for variance and approved. Example addresses: 8 Springwood Drive, Dover, DE 19904; 109 Springwood Drive, Dover, DE 19904; and 57 W Huntington Circle, Dover, DE 19904.

Staff Response:

Failure to remove the setback requirements may not create an exception practical difficulty as the applicant does have the ability to construct a detached accessory structure 5 ft. from rear and side property lines on the property, or reduce the size of the proposed additions to meet the principal setback requirements. Staff feels a reduction in size of the proposed attached garage or a detached accessory structure that is more in character with surrounding properties may be seen as a normal improvement to the property. As there are alternative options, it appears that any hardship may be a perceived hardship of the owner to do a specific layout 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 applicant is requesting a variance from the required side setback of 15 ft. to 2 ft.
- The applicant is requesting a variance from the required front setback of 40 ft. to 31 ft.
- The variances are requested in order to construct a 28' x 40' attached garage with a 4' x 3' attached portico / breezeway.
- There has been one similar variance request in the surrounding area:
 - **A-16-15 Jesse Mayan** requested a variance for a side setback reduction to 8.5 ft., a rear setback reduction to 15 ft. and from the maximum impervious surface coverage of 20% to 27% to enable the construction of a 26' x 74' pole building with a 4' x 16' breezeway. The request was approved.
- The subject site is approximately 0.54± acres and is improved with a single-family dwelling, shed, and in-ground pool.

- The subject site is zoned AR (Agricultural Residential). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
- The applicant is 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