



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT April 19, 2018

**APPLICATION:** A-18-04

**APPLICANT:** Kendrick Tice  
6408 Church Hill Rd  
Chestertown, MD 21260

**OWNER:** Terry & Diana Woodward  
2730 Vernon Rd  
Harrington, DE 19952

**PROPERTY LOCATION:** 2730 Vernon Road, Harrington, DE 19952

**NATURE OF REQUEST:**

**A-18-04 Kendrick Tice (Owners: Terry M. & Diana Woodward)** seeks a variance from the provision prohibiting an accessory structure to be placed in the front yard to enable the placement of solar panels (**§205-24.F(1) of the Kent County Code**). The property is located on the south side of Vernon Road (DE Rt. 14) at the intersection with Cattail Branch Rd. (Co. Rd. 113), southwest of Harrington. Levy Court District: 6<sup>th</sup>. Zoning District: AR. **Tax Map No.: MN-00-185.00-01-29.01-000**

The applicant is requesting a variance from the provision stating that an accessory structure may not be placed within the front yard in order to legalize an existing 12ft. x 12ft. electrical shed approximately 28.2 ft. from the front property line and to enable the construction of solar panels approximately 50 ft. to the front property line.

#### **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 **APPROVAL** 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:

See attached

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Accessory structures are permitted in the AR zoning district, as are ground mounted solar panels. Both improvements are required to meet accessory structure setbacks.

### **2. The character and uses of the immediate vicinity.**

Applicant Response:

See attached

Staff Response:

The character of the surrounding area is primarily agricultural and low-density residential in nature. The subject site is improved with a single-family dwelling, multiple accessory structures and a chicken farm with supporting structures. Surrounding properties appear to be utilized for farming purposes and are improved with similar structures associated to farming uses. The legalization of the existing electrical shed and the proposed placement of the solar panels within the front yard setback may not have a negative impact on the overall character of the area, as both structures can be considered an expected utility related to farming.

### **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 negatively affect the neighboring properties, as the subject parcel and proposed improvements are located at the intersection of Vernon Road and Cattail Branch Road. The solar panels are proposed to the east of the driveway, closer to the intersection of the two roads rather than bordering a neighbor's adjacent property line. The existing electrical shed serves as a utility to the chicken farm and is located towards the center of the parcel, away from neighboring properties. Due to their location, the legalization of the existing shed and the proposed solar panels will likely not have a negative impact on neighboring properties.

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:

See attached

Staff Response:

The failure to remove the front setback restriction may create an exceptional practical difficulty, as there are limited locations on the property to place solar panels due to the wooded nature of the parcel and orientation of the existing structures on site. Additionally, the property owner may experience a financial difficulty pursuing alternative layouts of the electrical utilities supporting the chicken farm caused by panels due to increased construction and materials costs, as outlined by the letter provided by the applicant. Due to the above factors, the property owner may experience a hardship in regards to their efforts to make improvements to the property and farming operation.

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 provision stating that an accessory structure shall not be located within the front yard area unless it is located a minimum of 100' from the front property line in order to place ground-mount solar panels.
- The applicant is proposing to place the ground-mount solar panels approximately 50' from the front property line.
- The existing electrical shed and two of the chicken houses on the subject site were constructed without a building permit.
- If approved, the property owner will be required to obtain a building permit for the electrical shed in addition to the two chicken houses. The chicken houses are not reliant on this request and will be required to obtain a building permit regardless of the outcome.
- The subject site is 16.34± acres and is currently improved with a single-family dwelling, multiple residential accessory structures, four chicken houses, and manure shed.
- There has been on previous Board of Adjustment application on the subject site:
  - **A-04-70 Terry & Diana Woodward** requested relief from the required 100' setback for a manure building in order to construct a manure shed

approximately 25' from the rear property line. The request was approved at the November 18, 2004 Board of Adjustment meeting.

- The subject site is zoned AR (Agricultural Residential). The Comprehensive Plan calls for low-density residential uses in this area.
- The applicant is advised that, should the request be granted, a building permit must be obtained through the Department of Inspections and Enforcement prior to construction. For more information, contact the Department of Planning Services at (302) 744-2455 between 8:00 a.m. and 5:00 p.m.

**ENC:** Exhibits A & B  
Letter from Applicant with Supplemental Information