



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT April 19, 2018

APPLICATION: A-18-07

APPLICANT: Michelle Derricks
355 Allabands Mill Road
Camden-Wyoming, DE 19934

OWNERS: Curtis & Michelle Derricks
355 Allabands Mill Road
Camden-Wyoming, DE 19934

PROPERTY LOCATION: 355 Allabands Mill Road & 14 Apple Grove School Road,
Camden-Wyoming, DE 19934

NATURE OF REQUEST:

A-18-07 Michelle Derricks (Owners: Curtis & Michelle Derricks, Marilyn V. Parnell, Blanche C. Washington) seeks a variance from the maximum impervious surface coverage of 23% and from the minimum 10ft. setback for an open deck less than 4ft. above grade to legalize an existing deck and to enable a lot consolidation plan (**§205-51 & §205-23.C.(6) of the Kent County Code**). The subject site is located on the north side of Allabands Mill Rd. (Co. Rd. 202) at the intersection with Apple Grove School Rd. (Co. Rd. 204), west of Dover. Levy Court District: 6th. Zoning District: AC. **Tax Map No. NM-00-093.00-01-10.00-000 & NM-00-093.00-01-12.00-000**

The applicant is requesting the variances in order to legalize an open deck located 4.5'± to the side property line and to legalize a total impervious surface coverage of 29.4% in order to enable a lot consolidation plan and residential addition between the two existing dwellings.

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 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:

No response.

Staff Response:

As shown on Exhibit A, the subject site is zoned AC (Agricultural Conservation). Surrounding properties are also zoned AC. Residential improvements, such as additions and decks, are within the nature of this zoning district, contingent on meeting required setbacks and impervious surface coverage requirements.

2. The character and uses of the immediate vicinity.

Applicant Response:

No Response.

Staff Response:

The character of the surrounding area is primarily residential in nature. Although there are farming uses to the north of the subject site, the surrounding character of the subject site is defined by residential properties, many of them legal nonconforming in nature, along Allabands Mill Road. The subject site is located at northeast corner of the intersection of Allabands Mill Road and Apple Grove School Road. The character of this corner is defined by three, legal-nonconforming, lots that are family-owned and utilized in a contiguous manner. Therefore, the legalization of the deck 4.5'+ to the property line may be considered in character with the surrounding area. The applicant is proposing to construct an addition between the two dwellings that are part of the lot consolidation. Due to the legal nonconforming nature of the surrounding properties, approval of a total coverage of 29.4% may not have a negative impact on the character and uses of the immediate vicinity.

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

Applicant Response:

No response.

Staff Response:

The reduction of the deck setback requirement may not negatively affect neighboring properties, as the applicant shares a driveway and outdoor patio with her sister, who owns the adjacent property to the east. Due to the contiguous manner in which the subject site and neighboring property is used, the legalization of the deck and additional impervious coverage would not have a detrimental impact on the neighbor. Should the request be approved, a shared easement agreement between the subject site and the parcel to the east will be required at the time of recordation for future property owners. Although the applicant is requesting a total impervious of 29.4% post consolidation in order to construct a residential addition, the total parcel area and it's conformity with the code is proposed to increase.

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 is the owner's effort to combine parcels NM-00-093.00-01-10.00-000 and NM-00-093.00-01-12.00-000 and to combine both dwellings located on said parcels. Failure to remove the restriction would create an unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner's efforts to make normal improvements to the property.

Staff Response:

The failure to remove the restrictions may create an exceptional practical difficulty, as the subject lots are legal nonconforming in nature and alternative locations for a deck are limited due to size and configuration of the existing parcels. Additionally, there are environmental impacts including a blue line stream, floodplain, and wetlands that further limit the space for any additional residential improvements. The proposed addition between the structures can be considered a normal improvement, once a lot consolidation plan is completed. Should the request be denied, the applicant may experience a hardship in efforts to make overall improvements to the subject site.

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 the variances in order to legalize an open deck located 4.5'± to the side property line and to legalize a total impervious surface coverage of 29.4% in order to enable a lot consolidation plan and residential addition.
- The applicant is proposing to construct an addition between the two existing dwellings, establishing the structures as one single-family dwelling.
- As a part of this process, the applicant has removed the kitchen from one of the dwellings in anticipation of combining the two homes.
- Parcel NM-00-093.00-01-10.00-000 is 7,291 square feet in size and is currently improved with a single-family dwelling.
- Parcel NM-00-093.00-01-12.00 is 7,470 square feet in size and is currently improved with a single-family dwelling.
- The entire area of the subject site is 14,761 square feet in size.
- There have been no previous Board of Adjustment applications on the subject site.
- The subject site is zoned AC (Agricultural Conservation). The Comprehensive Plan recommends that this area be utilized for low-density residential purposes.

- The applicants are advised that, should the request be granted, a Lot Consolidation plan with a shared access easement for the existing driveway and patio shall be completed and recorded. 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.

IV. AGENCY COMMENTS
Delaware Department of Transportation
Contact: Joshua J. Schwartz (302) 760-2768

Comment:

1. Deck shall not be placed within the R/W of Allabands Mill Road or Apple Grove School Road.

ENC: Exhibits A & B
Proposed Lot Consolidation Plan