



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT April 19, 2018

APPLICATION: A-18-08

APPLICANT: Mill Brook Engineering, LLC
P.O. Box 966
Dover, DE 19903

OWNER: Felton Country Cupboard, LLC
1200 Willow Grove Road
Felton, DE 19943

PROPERTY LOCATION: 1200 Willow Grove Road, Felton, DE 19943

NATURE OF REQUEST:

A-18-08 Millbrook Engineering, LLC (Owner: Felton Country Cupboard, LLC) seeks variances from the required parking setback of 25ft. from the front property line, from the required drive-aisle setback of 15ft., the required 15ft. landscape buffer along a major roadway, the required planted buffer of 10ft. for a parking area that abuts a road right-of-way, and from the maximum double-faced sign area of 64 sq.ft. to allow for the construction of a detached sign and the submittal of a site plan application (**§205-223.B.(1) & (2), §205-174.C, §205-224.A.(2), & §205-235.A.(2) of the Kent County Code**). The property is located on the south side of Willow Grove Rd. (DE Rt. 10), at the intersection with Holly Spring Rd. (Co. Rd. 256), west of Viola. Levy Court District: 6th. Zoning District: BG. **Tax Map No.: SM-00-125.00-01-21.00-000**

The applicant is requesting the above referenced variances to enable a site plan application. The applicant is requesting relief from the required 25ft. front parking setback to locate a parking area 14ft. from the property line along Willow Grove Road and from the required 15ft. drive aisle setback in order to locate a drive aisle 5ft. from the southern (side) property line. The applicant is requesting for the elimination of the required 15ft. planted buffer along Willow Grove Road, as well as for the elimination of the required 10ft. parking buffer along the right of way of Willow Grove Road. Finally, the applicant is requesting a variance from the maximum allowable sign area of 64 square feet in order to place a sign 100 square feet in area located 15ft. from 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 the following:

- a) **APPROVAL** of the request from the required 25ft. front parking setback in order to allow the parking area to extend 14ft. from Willow Grove Road (as shown on Exhibit B).
- b) **DENIAL** of the request from the required 15ft. drive aisle setback in order to locate a drive-aisle 5ft. from a side property line (as shown on Exhibit B).
- c) **DENIAL** of the request from the required 15ft. planted buffer along Willow Grove Road (as shown on Exhibit C).
- d) **DENIAL** of the request from the required 10ft. planted parking buffer along Willow Grove Road (as shown on Exhibit C).
- e) **DENAIL** of the request from the maximum area of 64 square feet for a detached sign in order to place a 100 square foot detached sign approximately 15ft. from the front property line along Willow Grove Road (as shown on Exhibit D).

These recommendations are 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 BG (General Business). Surrounding properties are zoned AR (Agricultural Residential), BG, and RMH (Residential Manufactured Home). Commercial zoning primarily defines the intersection of Willow Grove Road with Holly Spring Road and Sandalwood Drive. Retail sales and gas stations are within the nature of this zoning district. Due to the additional impervious surface coverage proposed on the site, the property will need to obtain site plan approval prior to the commencement of construction.

2. The character and uses of the immediate vicinity.

Applicant Response:
See attached.

Staff Response:

The character of the surrounding area is a mixture of low-density commercial uses and low-density residential uses. As stated above, there are commercial uses located at the northern and southern corners of the intersection of Willow Grove Road and Holly Spring Road. Single-family dwellings border the subject site to the west while vacant farmland borders to the south. The western portion of the subject site is currently vacant, with gas pumps and additional parking facilities proposed as part of the re-development of the site. The proposed front parking setback of 14ft. on the western side of the property may not have an impact on the surrounding character of the area due to the legal nonconforming nature of the parking's distance to Willow Grove Road on the east side of the site.

The proposed drive-aisle setback of 5ft. from the southern property line extends towards the residentially zoned, farmland to the south. The reduced setback may have an impact on the rural character that defines the area to the south of the subject site. Due to the property's proximity to residential uses, the elimination of both required planted buffers may be a detriment to the surrounding character of the area along Willow Grove Road. Planting buffers are meant to enhance the character of commercial development. A sign 100 square feet in area may be out of character with the surrounding residential uses, low-density commercial uses, and existing signage in the vicinity. Given that the west portion of the subject site is currently vacant, there appears to be ample opportunity to provide a code compliant site design that does not have a significant impact on the surrounding residential character.

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 required front parking setback may not have a negative impact on surrounding properties, as it is not extending closer to a neighboring property, but the roadway. There is a legal nonconforming parking area on the east side of the property that also extends closer to the front property line.

A reduction of the required 15ft. drive aisle setback from a side property line may have a negative impact on the bordering farm to the south of the subject site. Due to the low-density nature of the bordering properties, additional commercial traffic occurring closer to property lines may be a detriment to the neighbor south of the subject site. The elimination of the both planting buffers along Willow Grove Road may have a detrimental impact on neighbors located across the street, as there may be a lack of enhanced commercial character after the redevelopment of the site. The proposed increase in sign area may have a negative impact on travelers along Willow Grove Road, as a larger sign may impact sight-distances and provide a potential distraction for drivers.

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:

Failure to grant relief from the required front parking setback of 25ft. may create an exceptional practical difficulty, as the proposed redevelopment plan will require additional right of way to be dedicated to the State of Delaware. Additionally, the existing legal nonconforming parking area on the east portion of the subject site is located approximately 5ft. from the property line along Willow Grove Road after the required dedication. If not granted, the applicant may experience additional site constraints in regards to establishing a maneuverable site.

Failure to grant the requests from the drive-aisle setback, required buffers, and maximum sign area may not create an exceptional practical difficulty, as the west portion of the subject site is currently vacant. Aside from the required dedication from the State of Delaware, there is no unique circumstance to the parcel that inhibit the applicant's ability to form a compliant site plan appropriate for the size and configuration of the subject site. While the drive aisle, buffering, and sign area code requirements may impose a difficulty on the applicant's business plan, a reduction of the front parking setback of 25ft. may alleviate any site constraints and provide adequate room to meet other code requirements and provide necessary buffering along the Willow Grove corridor.

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 25ft. front parking setback in order to locate parking 14ft. from the front property line.
- The applicant is requesting a variance from the required 15ft. drive aisle setback in order to locate a drive-aisle approximately 5ft. from the southern (side) property line.
- The applicant is requesting a variance from the required 15ft. planted buffer along a major road.
- The applicant is requesting a variance from the required 10ft. parking buffer for

- parking areas that abut a road right of way.
- The applicant is requesting a variance from the maximum sign area of 64 square feet in order to construct a detached sign 100 square feet in area located 15ft. from the front property line.
 - The applicant is proposing to add additional parking spaces, drive-aisles, and gas pumps to the subject site.
 - The subject site is 1.97± acres and is currently improved with a commercial structure and parking area.
 - There has been one previous Board of Adjustment application on the subject site:
 - **A-83-12 Stephen Short & Ralph Mills Jr.** were approved for a variance from the required 50ft. front setback in order to construct an addition 38.5+ from the property line along Holly Spring Road.
 - The subject site is zoned BG (General Business). The Comprehensive Plan recommends that this area be utilized for highway commercial uses.
 - The applicant must apply for a site plan application with the Regional Planning Commission prior to the commencement of construction. For more information, call Kent County Planning Services at (302)744-2471.

IV. AGENCY COMMENTS

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

Comment:

1. Project has begun the plan review process in DelDOT. Project shall be designed per DelDOT standards.

ENC: Exhibits A – D
Applicant Responses to Criteria
Proposed Development Plan
Proposed Landscape Plan