

Kent County



Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT April 19, 2017

APPLICATION: A-18-12

APPLICANT: Elvia C. Vindel
1061 S. Little Creek Rd., #143
Dover, DE 19901

OWNER: Ana Jasmin Perdomo
3297 W. Denneys Rd
Dover, DE 19904

PROPERTY LOCATION: 3297 W. Denneys Rd, Dover, DE 19904

NATURE OF REQUEST:

A-18-12 Elvia C. Vindel (Owner: Ana Jasmin Perdomo) seeks a variance from the minimum front setback requirement of 75 ft. from a major roadway to enable the placement of a home (**Sect. 205-68.B of the Kent County Code**). The property is located on the northwest side of W. Denneys Rd. (Co. Rd. 100), approx. 1,299' northeast of Cantwell Dr., west of Dover. Levy Court District: 2nd. Zoning District: AR. Tax Map No.: **ED-00-066.00-01-24.01-000**

The applicant is requesting the variance to place a 72ft. x 28ft. manufactured home 61ft± 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 **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:

No response.

Staff Response:

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

2. The character and uses of the immediate vicinity.

Applicant Response:

The variance will not affect the surrounding properties and will not change the character of uses of the immediate vicinity.

Staff Response:

The character of this area is primarily residential in nature. The subject site is considered legal nonconforming, as it fails to meet today's bulk and area standards. Properties to the east of the subject site appear to also be legal nonconforming in nature being of a similar size, and are improved with both manufactured dwellings and stick-built, single-family dwellings. The approval of the reduced setback can be considered in character with surrounding legal nonconforming homes and their proximity to the front property line.

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

Applicant Response:

See comment above.

Staff Response:

The removal of this requirement may not have a negative impact on surrounding properties, as the proposed setback reduction is in relation to the road instead of adjacent 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 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 will create an exceptional practical difficulty because the home would be too close to the swimming pool.

Staff Response:

Failure to reduce the setback requirement may create an exceptional practical difficulty, as the applicant has a number of site constraints hindering them from placing the proposed home in a conforming location on the lot in relation to the front property line. Given the legal nonconforming nature of the subject parcel and current road classification requiring a larger setback, the applicant may experience a hardship in their effort to make a normal improvement to the property.

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 front setback of 75 ft. in order to place a 72ft. x 28ft. manufactured home on the subject site.
- The proposed home will be 61' ± from the front property line.
- The applicant originally applied for a permit proposing the dwelling to be 75ft. from the front property line; however, at the time of the footer inspection for the home, it was discovered that the proposed home will be 61ft. to the front property line and 75ft. from the edge of the pavement along W Denneys Road.
- The subject site is approximately 0.58± acres and is currently unimproved.
- There have been three previous Board of Adjustment applications for the subject site:
 - **A-79-55 Alonzo & Henrietta Moore** requested a variance for a side setback reduction of 20 ft. The request was approved to allow an addition to be within 16.5 ft. of the side property line.
 - **A-82-18 Alonzo W. Moore** was approved for a variance from the minimum side yard setback of 20 ft. and from applicable side yard aggregate of 50 ft. This application appears to be a continuation of the request from 1979, as it enabled construction of a new addition in line with the previously approved addition.
 - **A-17-46 Elvia C. Vindel (Jasmin Perdomo)** was approved for a variance from the side setback requirement of 15' in order to place a manufactured home 14.5' ± from the side property line.
- 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