



# Kent County

## Department of Planning Services

Division of Planning

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### STAFF RECOMMENDATION REPORT

May 17, 2018

**APPLICATION:** A-18-11

**APPLICANTS / OWNERS:** Kermit & Amy Rust  
1961 Drapers Corner Road  
Harrington, DE 19952

**PROPERTY LOCATION:** 1961 Drapers Corner Road, Harrington, DE 19952

**NATURE OF REQUEST:**

**A-18-11 Kermit C. & Amy Rust** seek a variance from the provision prohibiting accessory structures to dominate in area of the principal structure to construct a pole building (§205-24.D of the **Kent County Code**). The property is located on the west side of Drapers Corner Road, approx. 340' south of Brownsville Road (Co. Rd. 111), west of Harrington. Levy Court District: 6<sup>th</sup>. Zoning District: AR. **Tax Map No. MN-00-177.00-01-28.07-000.**

The applicants are requesting the variance to construct a 30ft. x 50ft. detached garage, totaling to 1,200 square feet. The principal structure is a 980 square foot manufactured home.

#### 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 applicants and staff as follows:

#### II. RESPONSE TO CRITERIA:

##### 1. The nature of the zone where the property lies.

Applicant Response:

The nature of the zone is agricultural.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential

District). Accessory structures are a permitted use within the zone, contingent upon meeting all size requirements as set by the Zoning Code of Kent County.

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

Applicant Response:

The use of the building will be for the storage of antique cars, boat, antique tractor, motorcycles, etc.

Staff Response:

The character of this area is agricultural and residential in nature. Farms border the subject site to the west, south, and east. To the north of the subject are residential properties ranging from one to two acres in size along Drapers Corner and Brownsville Roads. Detached accessory structures appear to be within the character of the surrounding area, however they do not appear to dominate in area of the principal dwelling. Although agricultural buildings are permitted to exceed the square footage of a dwelling, the proposed size of the structure in relation to other accessory structures on residential properties may be out of character with the area.

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

Applicant Response:

It is common in our area to have buildings larger than homes.

Staff Response:

The removal of this requirement may negatively affect other properties in the area as the proposed structure may appear out of character with other detached accessory structures within the surrounding area. Residential properties in this area appear to be of similar size and shape to the subject site, which may lead to an undesirable trend for accessory structures to dominate in area the primary dwelling, should this request be approved. The intent of the Zoning Code is to maintain a visual scale in regards to sizing of accessory structures to dwellings; therefore, the approval of this request may create an issue regarding a desired scale on residential properties not utilized for farming purposes throughout the rural areas of Kent County. The Board should consider a reduction in the overall footprint of the proposed structure to remain more in character with the existing dwellings within this area.

**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:

We need the building bigger for the protection of our valuables to have them stored in a safe area.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicants have the ability to construct a 30ft. x 32ft. structure to meet the maximum allowed square footage. Additionally, the applicants have the ability to build more than one accessory building, provided the total coverage of the lot does not exceed the maximum allowable impervious surface coverage of 23% to provide adequate storage for the items as stated above.

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 applicants are requesting a variance from the provision stating an accessory structure may not dominate in area, extent or purpose the principal use or structure.
- The applicants are seeking the above referenced variance to allow for the construction of a 30ft. x 40ft. detached garage, totaling 1,200 sq. ft. in size. The principal structure is 980 sq. ft.
- The subject site is 1.00+/- ac. and is currently improved with a manufactured home and two sheds. The applicant has stated that the existing accessory structures on site will be removed should the variance application be approved.
- There are no previous Board of Adjustment applications for the subject site.
- The subject site is zoned AR (Agricultural Residential District). 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 Building Permit shall be obtained prior to the commencement of construction. For more information, contact the Division of Planning at (302) 744-2471 or Department of Inspections and Enforcement at (302) 744-2451 between 8:00 a.m. and 5:00 p.m.
- The applicants should also be advised that the proposed structure may be used for personal use only. Any change in use within the proposed structure may be only after receiving all necessary approvals from Kent County Planning and any other required agency.

**ENC:** Exhibits A & B