



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT September 20, 2018

APPLICATION: A-18-24

APPLICANT/OWNER: Daniel Killen Dickerson
135 Deer Valley Rd.
Harrington, DE 19952

PROPERTY LOCATION: South side of Bloomfield Dr., Harrington, DE 19952

NATURE OF REQUEST:

A-18-24 Daniel Killen Dickerson seeks a variance from the minimum frontage requirement of 200' to allow the submittal of a minor subdivision (**§205-70.A.(1) of the Kent County Code**). The property is located on the south side of Bloomfield Rd. (Co. Rd. 311), approx. 170 ft. west of Cloverfield Ln. (Co. Rd. 397), north of Houston. Levy Court District: 4th. Zoning District: AR. **Tax Map No. MD-00-172.00-01-27.00-000**

The applicant is requesting the variance to enable a minor subdivision plan submittal to create a lot with 198.8± ft. of road frontage.

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 **DENIAL** 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 AR (Agricultural Residential District). Surrounding properties are similarly zoned AR. Minor subdivisions meeting all bulk and area requirements are within the nature of this zone.

2. The character and uses of the immediate vicinity.

Applicant Response:

No response.

Staff Response:

The character of the surrounding area is agricultural and residential in nature. There are a number of large farms in the area similar in size to the subject site, but also smaller residential lots both on the county road and within a subdivision. These residential lots vary in size from smaller than the one acre lots that the applicant is proposing to larger than 2 acre properties. The same is true of the road frontages of these lots. There are older legal non-conforming lots that are not 200' wide, but any lot created more recently, either through minor or major subdivision, was able to meet the required frontage for the district, therefore the recent trend in this area is for lots to conform to the required road frontage required.

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

Applicant Response:

No response.

Staff Response:

The removal of the restriction may not affect neighboring properties since the request is a reduction of 1.2 ft. of the required frontage which shouldn't be noticeable to neighboring properties. However, reductions of this requirement granted by the Board should be weighed carefully as additional approvals may result in a detrimental impact on the characteristics of newly created parcels throughout Kent County that has been established by the Levy Court.

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:

Variance is needed due to only having 398.80 ft. of road frontage and needing 400 ft. of road frontage to be able to subdivide two one acre parcels. Only needing roughly 14 inches more of road frontage.

Staff Response:

The failure to remove the restriction does not appear to create an exceptional practical difficulty as the applicant is able to create a new lot legally with the establishment of a private road that would not necessitate a variance approval. The establishment of a private road may be done through the administrative process of a minor subdivision, and allows for the applicant to create additional road frontage for those parcels lacking the required road frontage. Therefore, it appears that, based on there being

alternative options available, the exceptional practical difficulty may be a perceived hardship and not one based on a unique characteristic of 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 seeking the above referenced variance to reduce the required road frontage for parcels within the AR zoning district, located outside of the growth zone, which is 200 ft.
- The applicant is seeking this reduction to enable the submittal of a minor subdivision plan creating a new lot with road frontage of 198.98± ft. Another one acre lot is being proposed that does meet the required road frontage of 200 ft.
- The site is 17.3± acres in size and is currently improved with two chicken houses. If approved, the applicant plans to combine the remaining 16± acres of the subject site with the farm to the west that also has two chicken houses on it.
- There have been no previous Board applications on the subject site prior to this request.
- There has been one Board application similar to this request within the immediate vicinity:
 - A-15-04 was approved on 2/19/15 to reduce the required the road frontage from 200 ft. to create a parcel with frontage of 142.12 ft. The property is located on Killens Pond Rd., approx. ½ mile west of the subject site, across from Browns Branch County Park.
- The subject site is zoned AR (Agricultural Residential District). The Comprehensive Plan recommends that this area be utilized for low density residential purposes.
- The applicant is advised that, should this request be approved, a Minor Subdivision Plan must be submitted to Kent County Planning Services for review and approval. For more information, contact Planning Services at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.

ENC: Exhibits A & B