



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT September 20, 2018

APPLICATION: A-18-25

APPLICANT: Kenneth Rife, Jr.
71 Chance Rd.
Clayton, DE 19938

OWNERS: Judith A. Rife
59 Chance Rd.
Clayton, DE 19938

PROPERTY LOCATION: 71 Chance Rd., Clayton, DE 19938

NATURE OF REQUEST:

A-18-25 Kenneth Rife, Jr. (Owner: Judith A. Rife) seeks a variance from the provision prohibiting accessory structures to dominate in area of the principal structure to enable the construction of a pole building (**§205-24.D of the Kent County Code**). The property is located on the north side of Chance Rd. (Co. Rd. 140), approx. 225' northeast of Downs Chapel Rd. (Co. Rd. 95), west of Kenton. Levy Court District: 1st. Zoning District: AR. **Tax Map No. KH-00-043.00-01-48.01-000**

The applicant is requesting the variance to construct a 32ft. x 56ft. detached garage, totaling to 1,792 square feet. The principal structure is a 1,344 square foot manufactured home.

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 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 property is zoned AR – Agricultural Residential.

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 property is being used as a primary residence with a proposed storage building of 32' x 56'.

Staff Response:

The character of this area is agricultural and residential in nature. Single family lots that are a similar size to the subject site border this property on all sides. On the south side of Chance Rd. and Downs Chapel Rd. are more residential lots along the road frontage, but farms existing behind those lots. 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. 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:

The neighbor to the left of the property is located 100 ft. away from the proposed structure. The neighbor to the right is located 45 ft. away from the structure to the property line. No adverse effects are possible from granting this request.

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. 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. 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:

Failing to remove the requirement creates a hardship as I am in the process of planning for a new home in the immediate future which will far exceed the square footage of this accessory storage structure.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicants have the ability to construct a 32ft. x 42ft. structure to meet the maximum allowed square footage. Additionally, the applicant has 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. The applicant may also build an attached garage on the property or as part of a new home that could meet any additional storage needs the applicant has. We understand that a new home may be built on the property sometime in the future, but with the size and construction of the home unknown at this time, the staff has no way to determine how the construction of the home will change the character of this property or if a hardship will exist at that time. Finally, there has been no indication in the information submitted by the applicant to prove a need for the additional square footage that is being requested.

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 provision stating an accessory structure may not dominate in area, extent or purpose the principal use or structure.
- The applicant is seeking the above referenced variance to allow for the construction of a 32ft. x 56ft. detached garage, totaling 1,792 sq. ft. in size. The principal structure is 1,344 sq. ft.
- The exhibit submitted by the applicant shows that the garage will be built 112' feet from the edge of the road. Setbacks are taken from the front property line, so this structure appears to be about 95-100 ft. from the front lot line. This is still a legal location on the parcel but could the limit the location a new home can be built on the property. A new home cannot be built behind this building unless it is at least 100' back from the front property line. The applicant may want to consider moving the building further from the front property line to allow adequate space to build a new home in front of the garage or to be able to legally construct it in the backyard.
- The subject site is 3.4+/- ac. and is currently improved with a manufactured home,

shed, and driveway.

- There are no previous Board of Adjustment applications for the subject site or any in the surrounding area similar to this request.
- 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 appears to be using a grass area as an entrance to access the location of the proposed building. The applicant must be aware that any permanent entrance being used in addition to the driveway location must be approved by DeIDOT.
- 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 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 applicant 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