



Kent County

Department of Planning Services

Division of Planning

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STAFF RECOMMENDATION REPORT

October 18, 2018

APPLICATION: A-18-29

APPLICANT: John Sapp
1998 Tower Rd.
Hartly, DE 19953

OWNERS: John Reider
2236 Millington Rd.
Clayton, DE 19938

PROPERTY LOCATION: 2236 Millington Rd., Clayton, DE 19938

NATURE OF REQUEST:

A-18-29 John Sapp (Owners: John Reider) seeks a variance from the provision prohibiting accessory structures to dominate in area the principal structure to enable the placement of detached building (**§205-24.D of the Kent County Code**). The property is located on the south side of Millington Rd. (DE Rt. 6), approx. 10 ft. west of Daisey Rd. (Co. Rd. 128), west of Clayton. Levy Court District: 1st. Zoning District: AR **Tax Map No. KH-00-025.00-01-62.00-000**

The applicant is requesting the variance to construct a 42ft. x 40ft. detached garage, totaling to 1,680 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:

Currently there are trees surrounding property. Large open area for building location.

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 area is currently for their existing non-permanent mobile home.

Staff Response:

The character of this area is agricultural and residential in nature. Single family lots exist along Millington Rd. in both directions. To both the east and west of the subject site are active farms. Detached accessory structures appear to be within the character of the surrounding area, however they do not appear to dominate in area 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 removal of the code would not affect the neighbors in a negative way whatsoever for multiple reasons. Building would not be an eyesore. Would not be blocking or obstructing neighbor's view of landscape. Truthfully they would barely see it.

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. This may lead to an undesirable trend for accessory structures to dominate in area the primary dwelling. 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:

By not allowing the building square footage to be larger than the existing home it is causing their building design that will be compliant future home to not be available or passible.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicant has the ability to construct this detached building just without the full 12' x 40' porch. The applicant has not indicated what the building would be used for, but reducing the size of the porch on the front of the building would not decrease the storage potential of this building. 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. If at such time they build a new home and it's larger than the detached building, they would then be able to add the full porch on the building that is requested as part of this application.

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 30ft. x 40ft. detached garage with a 12ft. x 40' porch, totaling 1,680 sq. ft. in size. The principal structure is 1,344 sq. ft.
- The subject site is 11.2+/- ac. and is currently improved with 2 mobile homes and a few small sheds.
- 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 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 and not for any business purpose or for the storage of commercial vehicles. 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