



Kent County

Department of Planning Services

Division of Planning

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STAFF RECOMMENDATION REPORT October 18, 2018

APPLICATION: A-18-30

APPLICANT: Rose Krokenberger & Emerson R. Custis aka Rocky Krockenberger
2629 Morgans Choice Rd.
Camden-Wyoming, DE 19934

OWNER: Rose K. Krockenberger
2629 Morgans Choice Rd.
Camden-Wyoming, DE 19934

NATURE OF REQUEST:

A-18-30 Rose Krokenberger & Emerson R. Custis aka Rocky Krockenberger (Owner: Rose K. Krockenberger) seek 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 west side of Morgans Choice Rd. (Co. Rd. 230), approx. 440 ft. south of Westville Rd. (Co. Rd. 52), west of Wyoming. Levy Court District: 6th. Zoning District: AC. **Tax Map No. WD-00-092.00-02-19.02-000**

The applicants are requesting the variance to construct a 38ft. x 50ft. detached garage, totaling 1,900 square feet. This building is to be used mainly by the adjacent property owner Edward Frye. The principal structure is a 1,456 square foot dwelling.

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:

No response.

Staff Response:

As shown on Exhibit A, the subject site is zoned AC (Agricultural Conservation 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:

Structure of building fits in well with surrounding area and structures.

Staff Response:

The character of this area is agricultural and residential in nature. A large active farm is to the east of the subject site. To the north, south, and west is a residential property that has a home based contractor business approved. This property is whom the subject building is being constructed for. Single family homes on larger lots exist to the south along Morgans Choice Rd. and the Wild Quail single family development is located to the north on Westville Rd. Detached accessory structures appear to be within the character of the surrounding area only along Morgans Choice Rd. which has a few properties with smaller accessory buildings. The Wild Quail development does not allow detached structures. The only structure in the area that does dominate the area of the home is the property to the west. The owner has this building approved for a home based business that does allow for the size increase; however this owner wants to build an additional structure on the Krockenberger's property to store items. His business building should not set a precedent for the residential character of this area, since no other structures dominate the homes that have been built for residential purposes. In addition, the orientation of the building will have the garage doors facing away from the road, towards the neighbor property and parking lot for his business. It generally is not within the character of an area to have a blank wall of a garage face the road.

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 this requirement may negatively affect other properties in the area as the proposed structure may lead to an undesirable trend for accessory structures to dominate in area the primary dwelling. The business building clearly dominates the area and continuing that trend in a location immediately adjacent to the building may have an impact on the other owners in 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:

Recreational boat and trailer exceeds 44' and need building to protect boat from previous vandalism from attempt of theft.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the hardship is not one of the Krockenberger's who own the property, but that of the adjacent property owner who wishes to store his boat in this building. The practical difficulty must be that of the owner of the property, not that of someone else who wishes to use their property. If the adjacent lot owner needs a building to store a boat, then he should investigate building this structure on his own property near his home as opposed to on a neighbor's lot. In addition, the orientation of the doors on this build is meant to serve this adjacent parcel and will in no way serve the property owner involved. If the Krockenberger's needed a garage it could be attached to their home. It may also be detached but they do not seem to have a need for a building larger than their home.

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 30 ft. x 50 ft. detached garage with an 8 ft. x 50 ft. lean-to, totaling 1,900 sq. ft. in size. The principal structure is 1,456 sq. ft.
- The subject site is 1.0+/- ac. and is currently improved with a single family home.
- There are no previous Board of Adjustment applications for the subject site but one in the surrounding area. A-15-34 was approved on the neighboring lot to allow a detached structure to be used for a home based business to exceed the maximum height requirement of 20 ft. This building was approved to be 23 ft. tall.
- The subject site is zoned AC (Agricultural Conservation 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

Agreement to purchase between Frye and Krockenberger dtd. 9/7/18
Building elevations