

MEMORANDUM

KENT COUNTY DEPARTMENT OF
PLANNING SERVICES
555 BAY ROAD
DOVER, DELAWARE 19901



TO: Regional Planning Commission

CC: Craig Eliassen, Esquire

FROM: Sarah E. Keifer, AICP, Director, Department of Planning Services

DATE: November 1, 2018

SUBJECT: Mark & Colleen Evans (SLV-18-17)

WAIVER REQUEST: Applicants seek a waiver from Kent County Code Chapter §187-78. Water bodies, streams, and other watercourses; riparian buffers. Section B (2 & 3). No buildings, structures, or paved surfaces shall be permitted to be constructed nearer than:

- (2) One hundred feet to the shoreline (top of bank) of a blue-line stream as depicted on USGS maps.
- (3) Fifty feet to the shoreline (top of bank) of a non blue-line stream or drainage ditch.

REQUEST BACKGROUND: The applicants are seeking a waiver to enable the construction of a residential dwelling and accessory structure. The dwelling would be located 50.6' from the blue-line stream and 38.3' and 39.5' from the non blue-line stream/ditch to the rear. The detached accessory structure is proposed to be located 26.2' from the non blue-line stream/ditch. The driveway was originally proposed to encroach on the delineated wetlands buffer area of 25 feet but the applicant has agreed to move the driveway to the north to avoid that encroachment.

STAFF RECOMMENDATION: The Planning Staff has reviewed the information submitted by the applicants and recommends that the waiver requests be granted a **Modified Approval**. Staff recommends approval to enable the dwelling to be located 50.6' from the blue-line stream to the north but meet the 50' non blue-line stream setback to the east of the dwelling and the accessory structure. This code section is meant to minimize the impact of improvements to environmental features on a property. Due to the acreage of this parcel it appears the same improvements can be made without having as great an impact on these environmental features.

§187-80 states: Where it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the applicant because of unusual topography or other conditions which are not self-imposed or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Commission may modify or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter or be contrary to the goals and objectives of the Comprehensive Plan for the County.

NOTE: §187-81 (A) Provides that a waiver or modification may only be granted by the affirmative vote of $\frac{3}{4}$ of the Commission members present. Any number of negative votes greater than one would prevent the waiver from being granted.

Should you have any questions, please do not hesitate to contact me directly. Thank you.

ENC: Data Sheet
Exhibits A & B