



Kent County

Department of Planning Services

Division of Planning

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STAFF RECOMMENDATION REPORT

November 15, 2018

APPLICATION: A-18-31

APPLICANT/OWNER: Vernon J. and Jana M. Hood
442 McCauley Pond Rd.
Harrington, DE 19952

PROPERTY LOCATION: 771 McCauley Pond Rd., Harrington, DE

NATURE OF REQUEST:

A-18-31 Vernon J. & Jana M. Hood seek a variance from the required 40' front principal structure setback to enable the placement of a home (**§205-216.A(1) of the Kent County Code**). The property is located on the northwest side of McCauley Pond Rd. (Co. Rd. 394), approx. 799 ft. south of Canterbury Rd. (DE Rt. 15), northwest of Milford. Levy Court District: 4th. Zoning District: AC. **Tax Map No. MD-00-161.00-01-22.00-000**

The applicants are requesting the variance to place a single family dwelling on the property 30 ft. from the front property line.

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 **APPROVAL** 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:
Residential

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

District). Single family dwellings are a permitted use within the zone, contingent upon meeting all size and setback requirements as set by the Zoning Code of Kent County.

2. The character and uses of the immediate vicinity.

Applicant Response:

No response

Staff Response:

The character of this area is mainly residential in nature as single family lots similar in size to the subject site exist along McCauley Pond Rd. To the rear of the subject site is the pond. Single family homes are not out of character with the area. Most of those homes do meet the required 40 ft. front setback, although the home to the west appears to be closer to the front property line than 40 ft.

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

Applicant Response:

Placing the home on the left side of the property gives more room between houses. Our neighbor's house to the left is approx. 400 ft. Our neighbor's home to the right is approx. 25 ft. from the side property line.

Staff Response:

The removal of this requirement will not negatively affect other properties in the area as the home will be located on the lot to be as far from the neighboring homes as possible. Additionally, they will be meeting the required setback from the pond, so this should have no negative impact on that water body.

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:

It is a wooded lot next to a pond. Because of the shoreline our lots rear setback is 50 ft. which leaves a very small area to place the house since the front setback is 40 ft. We would like to place our house on the left side since there is a beautiful stand of healthy beech trees on the right side of our lot.

Staff Response:

The failure to remove the restriction would create an exceptional practical difficulty as the applicants would be forced to clear out mature trees to build the home. A home

is a normal improvement for this area and the lot is configured in such a way that the owners have a unique circumstance in attempting to meet the required setbacks. The existence of a pond to the rear of the lot increases the normal rear setback for this zoning district. Meeting this requirement is causing a hardship in also meeting the front setback for the lot.

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 applicants are requesting a variance from the provision that a principal structure must be setback a least 40 ft. from the front property line.
- They wish to place a home as close as 30 ft. from the front property line.
- The subject site is 0.6+/- ac. and is currently vacant.
- 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 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.

ENC: Exhibits A & B