



Kent County

Department of Planning Services

Division of Planning

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STAFF RECOMMENDATION REPORT

November 15, 2018

APPLICATION: A-18-32

APPLICANT: Tiffany Cole
96 Sherwood Forest Way
Hartly, DE 19953

OWNERS: Robert Cole and Bertha G. Freeman
2265 Lockwood Chapel Rd.
Dover, DE 19904

PROPERTY LOCATION: 2309 Lockwood Chapel Rd., Dover, DE 19904

NATURE OF REQUEST:

A-18-32 Tiffany Cole (Owners: Bertha G. Freeman and Robert Cole) seeks a variance from the provision stating an accessory structure shall not be located in the front yard or front setback to enable the placement of a home (**§205-24.F(1) of the Kent County Code**). The property is located on the north side of Lockwood Chapel Rd. (Co. Rd. 171), approx. 40 ft. west of Redbud Ln., east of Hartly. Levy Court District: 2nd. Zoning District: AR **Tax Map No. WD-00-064.00-02-17.01-000**

The applicant is requesting the variance to place a 1,568 sq. ft. single family dwelling that will be approx. 100' feet from the front lot line where the existing detached garage is 35 ft. from the front property line.

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 **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:

This is a residential property.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Single family homes and detached buildings 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:

There is a garage on the property and a mobile home on the property adjacent.

Staff Response:

The character of this area is mainly residential in nature, but there is one farm located to the east of the subject site. The remaining area is single family properties that are similar in size to the subject site and are improved with homes and detached structures. None of these properties appear to have an accessory structure in front of the home, but some have a structure on the side of the home that is even with the front façade of that home.

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

Applicant Response:

The removal of the restriction would not seriously effect the neighboring properties.

Staff Response:

The removal of this requirement will not negatively affect other properties in the area as the accessory structure already exists and placing a new home further from the road than the front façade of this building will not be a detriment to the area. Placing the home further from the roadway will increase the safety of the residents in the new home. The property to the east and north is in common ownership and the garage is being used by this home to the east. These surrounding properties should not be impacted by this request.

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:

The garage was already present on the property before the proposal to place another

home there.

Staff Response:

The failure to remove the restriction would create an exceptional practical difficulty as the applicants would be forced to build a home that is very near to the road. There is a hardship in improving this property without the need for a variance since there could be a safety concern for the home if it was to be placed as close the road as the detached building. The required front setback for a new home in this location would be 75 ft., so the applicant's proposal of meeting a 100' setback would conform to that.

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 that an accessory structure cannot be in the front yard or front setback of a property.
- The applicant wishes to place a 28' x 56' home 100' from the front property line. The existing detached structure is 576 sq. ft. and is 35'± from the front property line.
- The applicant must be aware that the new home must be placed at least 10' from the septic system.
- The subject site is 0.7+/- ac. and is currently improved with an accessory building.
- 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.

ENC: Exhibits A & B