



# Kent County

## Department of Planning Services

Division of Planning

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### STAFF RECOMMENDATION REPORT January 17, 2019

**APPLICATION:** A-19-01

**APPLICANT:** Michael F. LeNoir, Jr.  
113 North Fairfield Dr.  
Dover, DE 19901

**OWNER:** Helen L Gottorf  
Luther Towers  
430 Kings Hwy. – Apt 309  
Dover, DE 19901

**PROPERTY LOCATION:** 150 East Bradys Ln., Dover DE 19901

**NATURE OF REQUEST:**

**A-19-01 Michael F. LeNoir, Jr. (Owner: Helen L. Gottorf)** seeks a variance from the provision stating an accessory structure shall not be located in the front yard or front setback to legalize a detached garage (**§205-24.F(1) of the Kent County Code**). The property is located on the south side of E. Bradys Ln., approx. 705 ft. east of S. State St. (US Rt. 10A), east of Camden. Levy Court District: 5<sup>th</sup>. Zoning District: RS1. **Tax Map No. NM-00-095.10-01-09.00-000**

The applicant is requesting the variance from the provision stating an accessory structure shall not be located in the front yard or front setback to legalize a detached garage. The accessory structure is a 600 sq. ft., 2-car frame garage that was built in 1984. Distance from the front property line to the home is 48.5 ft., and distance from the front property line to the garage is 39.5 ft., per the surveyor.

#### 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:

Garage was built with a Kent County permit in 1984.

Staff Response:

As shown on Exhibit A, the subject site is zoned RS1 (Single Family 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 large plot of grass in front of the garage, so it is not an obtrusive structure that sits right on the road. Viewing the property from the road, it is not obvious that the garage is sitting a bit closer than the road.

Staff Response:

The character of this area is mainly residential in nature, with Tidbury Park located behind the subject site. The remaining area is made up with single family properties that are similar in size to the subject site and are improved with homes and detached structures.

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

Applicant Response:

Property borders Tidbury Parkland – no neighbors behind.

Staff Response:

The removal of this requirement will not negatively affect other properties in the area as the accessory structure has existed since 1984 and was legally permitted at this time. Further, the garage has no effect on visual clearance on the road. Due to how the road slightly bends at the subject property, it is difficult to even determine that the garage is 10ft. in front of the home. The property borders Tidbury Park, and thus there are no neighbors located behind it. 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:

Homeowner is elderly and on a fixed income – does not have the money to tear garage down. Garage adds significant value to the property which homeowner will be able to sell due to her age/health.

Staff Response:

The failure to remove the restriction would create an exceptional practical difficulty as the applicant would have to demolish the garage. This would put an economic hardship on the legal owner, as she is on a fixed income and cannot afford to demolish the building. Further, if this variance is not granted, the owner will not be able to sell the property even though she is elderly and has already moved. Lastly, there is a hardship in not granting this variance, as the garage was built in 1984 and was legally permitted at this time.

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 shall not be located in the front yard or front setback to legalize a detached garage.
- The applicant seeks approval to allow an existing 2-car garage to remain closer to the front property line than the primary dwelling unit. The existing garage is 600 sq. ft. and is 39.5'± from the front property line. The home is located 48.5'± from the front property line.
- The subject site is 0.51+/- acres and is improved with a 1,368 sq. ft. dwelling and the detached garage in question. The owner did receive a permit from Kent County to build the garage in 1984.
- 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 RS1 (Single Family Residential District). The Comprehensive Plan recommends that this area provides for medium residential development.

**ENC:** Exhibits A & B