



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT May 16, 2019

APPLICATION: A-19-17

APPLICANT/OWNER: Julie B. Procaccini
306 S. Bay Dr.
Dover, MD 19901

NATURE OF REQUEST:

A-19-17 Julie B. Procaccini seeks a variance from the maximum impervious surface coverage of 23% to enable the construction of a driveway (**§205-67 of the Kent County Code**). The property is located approx. 220 ft. south of the state maintained portion of South Bay Dr. (Co. Rd. 415), approx. 1,635 ft. south of Kitts Hummock Rd. (Co. Rd. 68), being lot 5 of the Kitts Hummock subdivision, east of Dover. Levy Court District: 3rd. Zoning District: AR. **Tax Map No. ED-00-106.00-01-14.00-000.**

The applicant is requesting the variance to enable the construction of a 349 sq. ft. concrete driveway. The maximum allowable impervious coverage is 23% (2,341.8 sq. ft.). This request would increase the site to 25.2% coverage (2567.5 sq. ft.)

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 request, based on the analysis of the four criteria from the applicant and staff as follows:

II. RESPONSE TO CRITERIA:

1. The nature of the zone where the property lies.

Applicant Response:

See attached

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Surrounding properties are also zoned AR, being part of the Kitts Hummock subdivision. Single family dwellings and driveways are within the nature of the AR zoning district.

2. The character and uses of the immediate vicinity.

Applicant Response:

See attached

Staff Response:

The character of the surrounding area is primarily residential. The majority of lots in the immediate vicinity are developed, although the lot to the south is owned by the State of Delaware and is not developed. Although no other properties on S Bay Dr. have asked for an impervious surface coverage variance, there are many lots that have a paved or concrete driveway the same size or larger than that requested by the applicant.

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

Applicant Response:

See attached

Staff Response:

The removal of the restriction may not affect neighboring properties as the property to the south is owned by the State and has no impervious coverage. In addition, if denied, the applicant could build a driveway out of stone or gravel. Due to the possibility of flooding, this material could wash out onto the paved public street that goes through this lot.

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:

See attached.

Staff Response:

The failure to remove the restriction may create an exceptional practical difficulty as a driveway is a normal improvement for a residential dwelling. Although the driveway could be made out of some pervious material, the nature of this part of the county has soft, sand covered ground which may not be suitable for those materials while parking a vehicle. The driveway is 20.5' wide which is not unreasonably large for a driveway that could park two vehicles. These unique conditions of the site, and the fact that it's a minimal request, are a hardship to making a normal improvement.

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 no more than 23% of each lot in an AR district shall be covered by man-made impervious surfaces to allow for the construction of a 349 sq. ft. concrete driveway. This would increase the lot coverage to 25.2%. The property is currently conforming at 21.8%.
- The site is 0.24± acres in size and is currently improved with a house.
- Variance A-79-07 for the subject site was approved on 3/15/79 to reduce the front setback requirement of 65 ft. from the centerline of the road to 39.5 ft. and to reduce the side property line setback requirement from 20 ft. with an aggregate of 50 ft. to 19 ft. on both sides to enable the construction of a single-family dwelling. This home has since been removed.
- Variance A-12-18 for the subject site was approved on 6/21/12 to reduce the 25 ft. required front and rear property setbacks to 8 ft. to enable the construction of a new single family dwelling. This request expired and a new application was filed. A-17-29 was approved in July of 2017 for the same request. The home was built based on this approval.
- There have been no Board applications similar to this request within the immediate vicinity.
- The subject site is zoned AR (Agricultural Residential District). The purpose of the AR District is to provide for a wide range of agricultural use and farm related services while providing for low-density residential development in areas that are rural in character and where farming may not be the optimum land use activity. The 2018 Comprehensive Plan recommends that this area be utilized for low density residential purposes.

ENC: Exhibits A & B & C

Letter from applicant discussing four variance criteria for this request

Pictures submitted by applicant