



Kent County

Department of Planning Services

Division of Planning

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STAFF RECOMMENDATION REPORT May 16, 2019

APPLICATION: A-19-14

APPLICANT/OWNER: William T. Perkins
4445 Berrytown Rd.
Wyoming, DE 19934

NATURE OF REQUEST:

A-19-14 William T. Perkins seeks a variance from the provision prohibiting accessory structures to dominate in area of the principal structure to enable the construction of a pole building (**§205-24.D of the Kent County Code**). The property is located on the south west corner of Willow Grove Rd (Co. Rd. 57) and Berrytown Rd. (Co. Rd. 246), west of Camden. Levy Court District: 6th. Zoning District: AR. **Tax Map No. NM-00-110.00-01-01.01-000.**

The applicant is requesting the variance from the provision stating an accessory structure shall not dominate in area the principal structure. The applicant is requesting the variance to construct a 1,728 sq. ft. pole building, with 480 sq. ft. lean-to's on two sides of the building, for a total of 2,688 sq. ft. The principal structure is approximately 1,648 sq. ft. The size difference between the proposed pole building and the principal structure is 1,040 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 **DENIAL** 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:

Property is 7.9 acres, needs to be 10 acres or more for proposed building to be

considered farm land or make \$10,000 a year for two or more years from property.

Staff Response:

As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential District). Accessory structures are a permitted use within the zone, contingent upon meeting all size requirements as set by the Zoning Code of Kent County.

2. The character and uses of the immediate vicinity.

Applicant Response:

Area is present being used for hay.

Staff Response:

The character of this area is both residential and agricultural in nature. Properties to the north and southeast appear to be residentially developed, with properties to the west and immediate east appear to be utilized for agricultural purposes. While parcels in the immediate vicinity vary in size and configuration, the majority of surrounding lots with detached accessory appear not to be dominating in area of the principal dwelling. Therefore, the proposed size of the structure in relation to other accessory structures on residential properties may be out of character with the area.

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

Applicant Response:

Proposed building is 125 ft. from top-of-line tax ditch property line. All surrounding neighbors have no problem with proposed building.

Staff Response:

The removal of this requirement may negatively affect other properties in the area as the proposed structure may lead to an undesirable trend for accessory structures to dominate in area the primary dwelling. The proposed pole building is 1.63 times larger in square footage than the principal structure. A square footage difference of this level, is much greater than what is general seen in the surrounding area. Although residential properties in this area appear to be of similar size and shape to the subject site, if this request is approved it could lead to an undesirable trend for accessory structures to dominate in area the primary dwellings in the surrounding area. Further, the intent of the Zoning Code is to maintain a visual scale in regards to sizing of accessory structures to dwellings; therefore, the approval of this request may create an issue regarding a desired scale on residential properties. If approved, the Board should consider a reduction in the overall footprint of the proposed structure to remain more in character with the existing dwellings within this area. For example, this might be most easily achieved by limiting the size of the two proposed lean-tos on the building.

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:

Proposed building to be used for small organic herb and vegetables and equipment. Also animals (total of 3 house and goats) for myself and granddaughters, '4-H prospects'. Also to be used for storage of trucks, tractors, lawnmowers, golf cart, motorcycle, boats, and other miscellaneous items: storage, multi-purpose. I've already borrowed the money and put \$12,000 down. I don't want to pay for another set of plans, along with the variance fee and permit fees.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicants have the ability to construct an accessory structure to meet the maximum allowed square footage. Additionally, the practical difficulty is entirely self-imposed, as the applicant has the ability to build more than one accessory building for storage of his personal items, provided the total coverage of the lot does not exceed the maximum allowable impervious surface coverage of 23%. Lot size is 7.8± acres; therefore, the applicant has a total of roughly 337,080 sq. ft. for area for total impervious coverage. These figures indicate the applicant has the square footage to build accessory structures on the subject site, without the need for a variance to allow for the referenced pole building which is 1,040 sq. ft. in area larger than the principal structure.

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 prohibiting accessory structures to dominate in area, extent, or purpose the principal use or structure, to allow for the construction of a pole building.
- The applicant is seeking the above referenced variance to allow for the construction of a 36 ft. by 48 ft. pole building, with two 48 sq. ft by 10 sq. ft. lean to's on two sides of the building, for a total of 2,688 sq. ft. The principal structure is approximately 1,648 sq. ft. This is a difference of 1,040 sq. ft. in sizes of the two buildings.
- The intended use of the building is to be used for small organic herb and vegetables, as well as storage of automobiles and other types of recreational vehicles.
- The subject site 7.8± acres and is currently improved with a single-family dwelling

- (1,648 sq. ft).
- 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. 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 Kent County Comprehensive Plan (2018) recommends that this area be utilized for low density residential purposes.
 - The applicant should also be advised that the proposed structure may be used for personal use only and not for any business purpose or for the storage of commercial vehicles. Any change in use within the proposed structure may be only after receiving all necessary approvals from Kent County Planning and any other required agency.
 - 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