



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT September 19, 2019

APPLICATION: A-19-36

APPLICANT/OWNER: David N. Anderson
510 Smyrna Clayton Blvd.
Smyrna, DE 19977

PROPERTY LOCATION: 305 Tower Rd., Camden Wyoming, DE 19934

NATURE OF REQUEST:

A-19-36 David N. Anderson seeks a variance from the provision prohibiting accessory structures to dominate in area 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 west side of Tower Rd. (Co. Rd. 218), approx. 0.93 miles south of Westville Rd. (Co. Rd. 52), west of Wyoming. Levy Court District: 6th. Zoning District: AR. **Tax Map No. WD-00-100.00-01-14.01-000.**

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 1,280 sq. ft. pole building. The principal structure is 1,008 sq. ft. The size difference between the proposed pole building and the principal structure is 272 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:

The nature of the zone is agricultural, mostly residential.

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:

The character of the vicinity is mostly wooded. A lot of the surrounding neighbors have pole barns and my neighbors have no objections.

Staff Response:

The character of this area is both residential and agricultural in nature. Properties to the north and south are residentially developed. Properties on the east side of Tower Rd. are wooded. There are existing farms further to the east and to the west of the subject site. While other parcels in the immediate vicinity have detached buildings, those structures appear not to be dominating in area 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:

My pole building will not affect my neighbor's properties because it is wooded and they will not even see it except when driving by the house.

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 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.

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 reason we are needing a larger pole barn than the size of our house is because of lack of storage. I have a boat, camper, and several lawn tractors that need to be stored out of the weather. Then we won't have so much clutter in our yard.

Staff Response:

The failure to remove the restriction would not create an exceptional practical difficulty as the applicant has 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, for example, a 1,000 sq. ft. building then supplement the need for additional storage with a small shed of 200-300 sq. ft. This would equal the same amount of storage space and still be two normal improvements for a residential parcel. The fact that the owner has more items than can be stored in a legally sized building may not be a true hardship for him to make a normal improvement to the property.

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 32 ft. by 40 ft. (1,280 sq. ft.) pole building. The principal structure is a 14' x 72' (1,008 sq. ft.) manufactured home.
- The subject site 1.0± acres and is currently improved with a single-family dwelling.
- 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 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