



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

APPLICATION: A-25-11

OWNER: Orchid Home, LLC
200 Bridge St
Suffield, MA 06078

APPLICANT: Vasily Ivanov
200 Bridge St
Suffield, MA 06078

PROPERTY ADDRESS: 12 S Sandpiper Dr
Dover, DE 19901

**DATE OF PUBLIC HEARING
& DECISION:** March 20, 2025

MEMBERS PRESENT: Brian Cusick, Chairperson
Morgan Hudson, Vice-Chairperson
Joan Denney
Temple Carter
Brauncy Jenkins
George Gallo, Jr.

NATURE OF REQUEST:

A-25-11 Vasily Ivanov (Owner: Orchid Home, LLC) seeks a variance from the requirement that the primary unit shall remain owner-occupied unless the property is five acres or more to apply for a short-term rental (**§205-68.I.(2) of the Kent County Code**). The property is located on the southwest corner of Pickering Beach Rd. and S. Sandpiper Dr., east of Dover. Levy Court District: 3rd. Zoning District: AR. **Tax Map No. 2-00-088.02-03-03.00-000**

The applicant is requesting a variance of 4.86± acres from the requirement that the primary unit shall remain owner-occupied unless the property is five acres or more to apply for a short-term rental on a 0.14 ± acre property.

SUMMARY OF EVIDENCE

1. The subject site is 0.14 ± ac and is currently improved with an single family dwelling.
2. Mr. Vasily Ivanov, property owner, spoke in favor of the application.
3. Mr. Ivanov explained that the subject property is a beach property with limited size of land

available which makes the required 5 acres unfeasible.

4. Mr. Ivanov stated that the variance would allow him to share his property with local tourists to visit the horseshoe sanctuary and families of those that are stationed at DAFB.
5. Mr. Ivanov added that he has owned the property for three years and spends about three to four days a month at the property.
6. Mr. Ivanov explained that he has installed cameras on the property and is five hours away if there are any issues.
7. Mr. Ivanov detailed that the community has changed in the past year due to a number of sales and new people moving into the community. He added that there are two other Airbnbs in the community.
8. Mr. Ivanov stated that he has owned the property since February 2022 and has done Airbnb since then.
9. Mr. Ivanov explained that this is not a private community and that there is a public access to the beach.
10. Mr. Ivanov detailed that the summertime gets very busy for people wanting to come to look at the horseshoe crabs and that bus loads of people come at times.
11. Mr. Tom Antonio spoke in favor of the application.
12. Mr. Antonio explained that he lived at Pickering Beach for almost twenty years. He added that there is no place for people to stay when they come to visit the area.
13. Mr. Antonio detailed that Pickering Beach was once a private beach and that the beach could only be accessed by property owners until property owners gave part of their land to DNREC.
14. Mr. James Johnson spoke in opposition of the application.
15. Mr. Johnson expressed that litter has sat on the subject properties deck and then blows around. He added that a lot of cars would be parked there overnight. He explained that there was also a trailer on the property that has since been removed.
16. Mr. Johnson stated that he has concern for the delicate ecosystem of Pickering Beach.
17. Dr. Lindquist explained that busses come yearly with people to bless the horseshoe crabs.
18. Dr. Lindquist detailed that most property owners did deed part of their land that was on the beach to DNREC. He added that the person that owned his parcel prior to him did not deed their portion of the beach to DNREC.
19. Dr. Lindquist stated that he is deeply concerned about the potential negative impacts the

variance could have on their community character, property values, and could alter the visual character of the area.

20. Dr. Lindquist explained that they have experienced partying and late night noise from the subject property.
21. Dr. Lindquist stated that if someone moved into the property and rented it long term then that would not be a problem.
22. Mr. Mike Castello spoke in opposition of the application.
23. Mr. Castello explained that they have about seven short-term rentals at Kitts Hummock and they do not like that the owners are not on the property.
24. Mr. Martin Burke spoke in opposition of the application.
25. Mr. Burke stated that the property is rented most of the time.
26. Mr. Tim Goodwin spoke in opposition of the application.
27. Mr. Goodwin explained that he is in support of the ordinance and the enforcement of the ordinance.
28. Mrs. Ellen Depuy stated that her property is five houses north. She added that there was one night that there was a party at the subject property that she could hear at her home.
29. Mrs. Depuy stated that people may not want to be there and live there if the community becomes commercialized.
30. Mrs. Depuy explained that the time they had the party it did not disturb her to call the police.
31. Mr. Steven Depuy spoke in opposition of the application.
32. Mr. Depuy stated that people sometimes come to the beach for religious reasons, which they do not have opposition with.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Analysis of the four factors set forth in Board of Adjustment of New Castle County v. Kwik-Check Realty, Inc., 389 A.2d 1289, 1291 (Del. 1978), supports the **DENIAL** of the requested variance.

- (1) **The nature of the zone where the property lies:** As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential) outside the growth zone. Short-term rentals are a permitted use within this zoning district, contingent upon meeting all conditions of approval outlined in the Kent County Zoning Code.
- (2) **The character and uses of the immediate vicinity:** The character of the surrounding area is primarily residential, with the Delaware Bay to the east. The immediately adjacent

parcels to the south and east of S. Sandpiper Dr. are improved with single-family homes. The parcel to the west, and north across Pickering Beach Rd., are wetlands owned by the State of Delaware Division of Fish and Wildlife.

- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** The reduction of the required acreage requirement may seriously affect the neighboring properties. The intent of the acreage requirement is to provide a buffer between the commercial use and surrounding neighbors. The requirement that the property be owner occupied is to help prevent potential nuisances from occurring on site, as the owners will be present and more aware of any problems. Several letters were received and several persons spoke at the public hearing in objection to the application.
- (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:** Failure to remove the restriction would not create an unnecessary hardship or exceptional practical difficulty for the owner to make normal improvements to the property. Although short-term rentals are allowed in the zoning district, the use of a property as a rental is not a guarantee. The owners also have alternative options for use of the property. They could rent the property as a long-term rental, or they could reside in the home to still use it as a short-term rental.

DECISION: On a motion made by Mrs. Denney and seconded by Mr. Carter, the Board of Adjustment voted 6 in favor of the motion to **DENY** application A-25-11, thus denying a variance of 4.86± acres from the requirement that the primary unit shall remain owner-occupied unless the property is five acres or more to apply for a short-term rental on a 0.14 ± acre property. The support of this motion was based on testimony given, letters of objection received, change in character of the immediate vicinity, staff recommendation, and negative affect on the neighboring properties.

NOTES:

1. The applicants are advised that any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Superior Court in and for Kent County a petition setting forth that such decision is illegal in whole or in part, specifying the grounds for the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board (9 Del. C. § 4918).

KENT COUNTY BOARD OF ADJUSTMENT



Brian Cusick, Chairperson

DECISION FILED: 4/21, 2025