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BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: August 21, 2025

SUBMITTED BY: Jesse Lindenberg, Planning Services

ITEM TYPE: Application

AGENDA SECTION: **Public Hearing**

SUBJECT: **A-25-19** William J. Payton (Owners: William J. Payton IV & Ronald H. Payton Sr. LTR)
Tax Map No. 6-00-180.00-03-30.00-000

ATTACHMENTS:

[A-25-19 Payton Notice of Application](#)
[A-25-19 Payton Staff Report](#)
[A-25-19 Payton Exhibit A](#)
[A-25-19 Payton Exhibit B](#)



DEPARTMENT OF PLANNING SERVICES

NOTICE OF APPLICATION

TO: Interested Parties, Applicants, Owners & Adjacent Property Owners
FROM: Kent County Department of Planning
RE: Kent County Board of Adjustment Public Hearing

The Kent County Board of Adjustment will hold a public hearing on **Thursday, August 21, 2025**, at **6:00 p.m.** in the Levy Court Chambers, Room 203, Kent County Complex, 555 Bay Road, Dover, Delaware to receive public testimony regarding this application described as follows:

A-25-19 William J. Payton (Owners: William J. Payton IV & Ronald H. Payton Sr. LTR) seeks a variance from the 30' front setback requirement to legalize an existing dwelling (**§205-82.B.(1) of the Kent County Code**). The property is located on the southeast side of Payton Ln., approximately 312' north of Hunting Quarter Rd., southeast of Harrington. Levy Court District: 4th.
Zoning District: AR. **Tax Map No. 6-00-180.00-03-30.00-000**

The Board of Adjustment will receive testimony regarding this application (in favor or in opposition) at the public hearing. Anyone who wishes to attend or give testimony may do so. **Someone must be present to represent this application.** Any decision made by the Board of Adjustment may be appealed to Superior Court, Kent County, Delaware, within thirty (30) days of filing the decision.

If you are unable to attend the Public Hearing, you may submit written comments. Written comments should be received by the Kent County Planning Department by Monday, August 11, 2025, so that copies may be made and entered into the Staff Report and mailed to the members of the Board of Adjustment. Comments received after that date will be copied and made available to the members of the Board of Adjustment at the public hearing.

Information pertaining to this application may be viewed at the Department of Planning Services, Division of Planning, 555 Bay Road, Dover, Delaware. Office hours are 8:00 a.m. to 5:00 p.m.

As a courtesy to other participants in this hearing, a maximum of five (5) minutes will be allotted to any person who wishes to provide testimony for this application. The Chairperson of the Board of Adjustment has the discretion to allow additional time if deemed to be necessary.



DEPARTMENT OF PLANNING SERVICES

STAFF RECOMMENDATION REPORT

August 21, 2025

APPLICATION: A-25-19

APPLICANT: William J. Payton
2545 Hunting Quarter Rd.
Houston, DE 19954

OWNERS: William J. Payton & Ronald H. Payton Sr. LTR
2545 Hunting Quarter Rd.
Houston, DE 19954

ADDITIONAL CONTACT: Donald Vaughen
2545 Hunting Quarter Rd.
Houston, DE 19954

PROPERTY LOCATION: 2660 Hunting Quarter Rd.
Houston, DE 19954

NATURE OF REQUEST:

A-25-19 William J. Payton (Owners: William J. Payton IV & Ronald H. Payton Sr. LTR) seeks a variance from the 30' front setback requirement to legalize an existing dwelling (§205-82.B.(1) of the Kent County Code). The property is located on the southeast side of Payton Ln., approximately 312' north of Hunting Quarter Rd., southeast of Harrington. Levy Court District: 4th. Zoning District: AR. Tax Map No. 6-00-180.00-03-30.00-000

The applicant is requesting a variance from the required front setback of 30' to legalize the placement of an existing dwelling that is 22.3' from the front property line on Payton Ln. In 2001, the property was subdivided through the creation of a private road (Payton Lane). As part of this minor subdivision plan, the dwelling was labeled as "To be removed or relocated" as it was too close to the private road to comply with setbacks. The home was never removed or relocated, and the applicant is now seeking to legalize the existing placement of the home.

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 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) outside the growth zone. The surrounding properties are also zoned AR. A dwelling is a normal and expected improvement within the zoning district, provided it complies with the applicable area and bulk restrictions.

2. The character and uses of the immediate vicinity.

Applicant Response:

See attached.

Staff Response:

The character of the surrounding area is primarily residential and natural, with some agricultural uses. To the south and west (across Hunting Quarter Rd.) are single-family residences. The adjacent parcels to the east are vacant, with some single-family residences further up. To the north (across Gun and Rod Club Rd.), there are multiple vacant parcels and single-family residences. Further west and northwest are farm fields.

The dwelling is located on the southern portion of the parcel. This portion of the property is surrounded by single-family residences to the north, west, and south. All of the adjacent homes appear to be compliant with their respective front setback requirements.

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

Applicant Response:

See attached.

Staff Response:

The reduction of the 30' front setback requirement is not likely to seriously affect neighboring properties. The dwelling is a legal nonconforming use on the property. When the property was subdivided in 2001, the dwelling was not in compliance with the front setback requirement from the private road being created. The home has been in the same location for many years and will not be getting any closer to other properties if the variance is granted. It is not visible from the main road and does not block any sightlines for drivers.

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:

Removal of the restriction would not create unnecessary hardship or exceptional practical difficulty for the owner. As mentioned previously, the 2001 minor subdivision plan for the property required the home to be removed or relocated. Any practical difficulty arising from the relocation or removal should be considered self-imposed, since the owner's agreed to this as part of the plan's approval. The owner still has the option to remove the home or relocate it, as there is sufficient room on the parcel to place the home in a compliant manner. If the home cannot be relocated due to structural concerns, then the owner also has the option to have the home condemned so that the nonconforming use can be replaced in a location compliant with the setback requirements.

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. ADDITIONAL INFORMATION:

- The subject site is 6.9± acres and is improved with three single-family dwellings and multiple accessory structures.
- There have been no previous Board of Adjustment applications on the subject site.
- There have no Board of Adjustment applications in the surrounding area that were similar to this request.

ENC: Exhibit A
Exhibit B



KENT COUNTY

Board of Adjustment

LOCATION AND ZONING MAP

A-25-19 Exhibit A

APPLICANT:

William J. Payton

OWNER:

William J. Payton IV & Ronald H. Payton Sr.

PRESENT ZONING DISTRICT:

AR (Agricultural Residential)

PROPOSED VARIANCE:

Variance from the 30' front setback requirement to legalize an existing dwelling

PRESENT USE: Residential**PROPOSED USE:**

Same with legalized dwelling

LEVY COURT DISTRICT:

4th - Scott

TAX MAP NO:

MN-00-180.00-03-30.00-000

LOCATION: Located on the southeast side of Payton Ln., approximately 312' north of Hunting Quarter Rd., southeast of Harrington

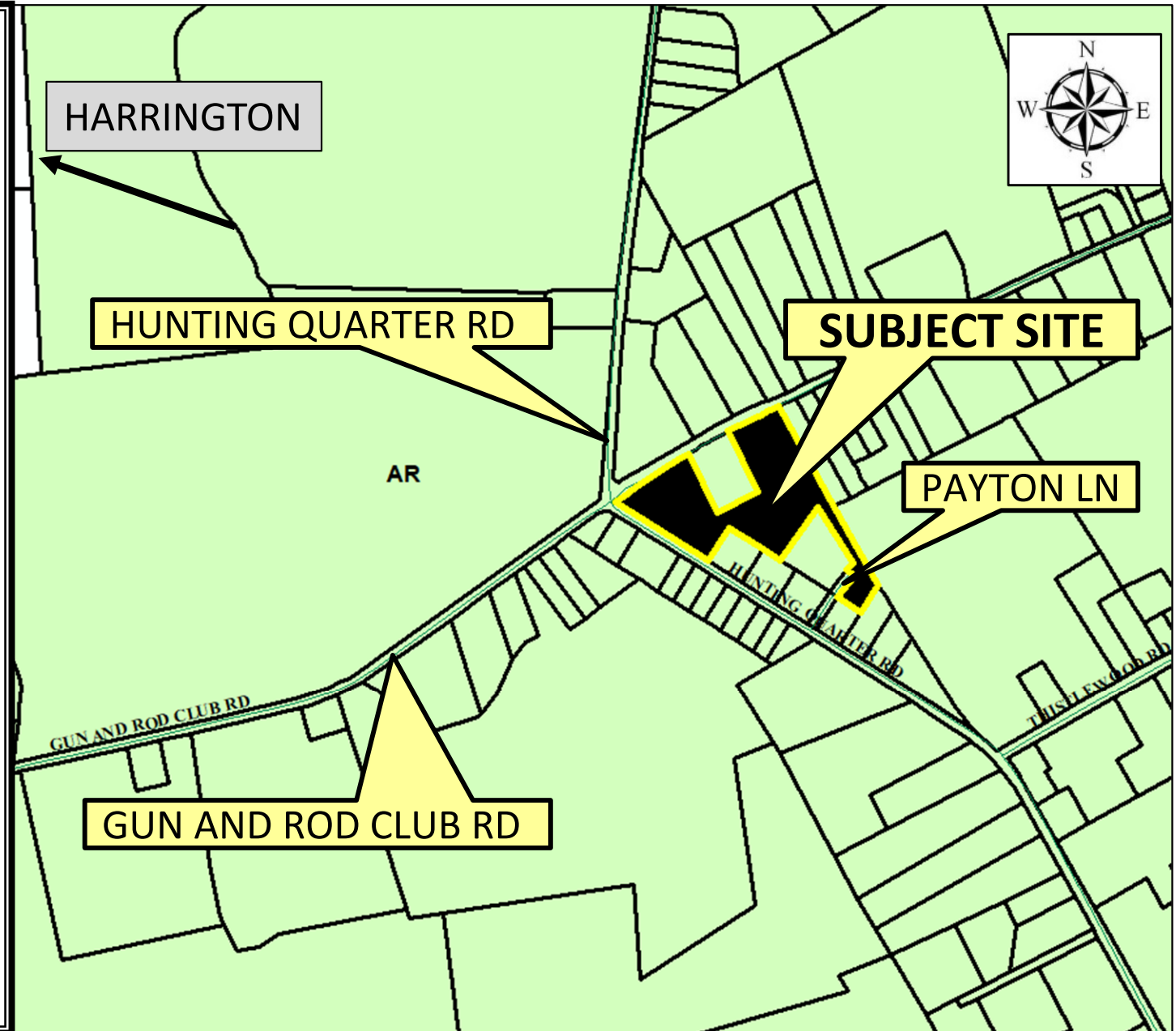


Exhibit B

Application: A-25-19
Payton

Variance from the 30' front setback requirement to legalize an existing dwelling

