



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

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 Vaughn
2545 Hunting Quarter Rd.
Houston, DE 19954

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

**DATE OF PUBLIC HEARING
& DECISION:** August 21, 2025

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

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.

SUMMARY OF EVIDENCE

1. The subject site is 6.9+ acres and is currently improved with three single-family dwellings and multiple accessory structures.
2. Mr. William Payton, applicant, spoke in favor of the application.
3. Mr. Payton stated that he applied for the variance because there are three homes on the property and they want to subdivide so each home is on its own lot. He explained that the subject home has been there 35 years, has a registered well and septic, and that the variance is the only thing they need in order to subdivide.
4. Mr. Payton stated he was not aware that relocation or removal of the home was part of the approval for the subdivision on the property in 2001. He explained that his mother was the one handling that application and that she has passed away.
5. Mr. Payton added that the home is in good condition, but that it would be almost impossible to move it due to its age. He explained that it has an addition on the back that would have to be removed and that the home would need to be turned the other direction to fit within the setbacks. He stated that the septic is behind the well in the front yard and that it would be difficult to relocate the home due to the trees, well, and septic.
6. Mr. Payton explained that without the variance they would have to buy another home. He stated that his nephew lives in the house and that his brother and father live in the other two homes on the property. He added that subdividing the property so that each home is on its own parcel would increase the value of the property.

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 **APPROVAL** 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. The surrounding properties are also zoned AR. A dwelling is a normal and expected improvement within the zoning district.
- (2) **The character and uses of the immediate vicinity:** 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 subject 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.

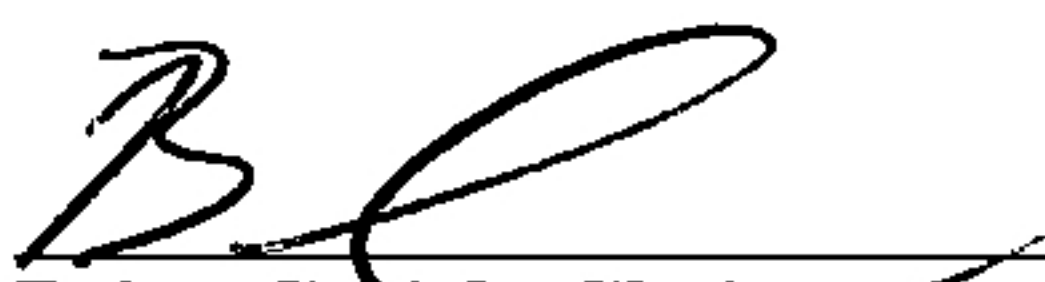
- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** The reduction of the 30' front setback requirement is not likely to seriously affect neighboring properties. The dwelling is a legal nonconforming use on the property. When the 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:** Failure to remove the 30' front setback restriction would create an unnecessary hardship for the owner. The subject dwelling has existed on the property for several years. Although it was intended to be relocated, the condition of the house will not allow this. Replacing the house would be a financial hardship for the property owner and the location of the septic, well, and existing trees would make it difficult to place a new house in a compliant manner. Additionally, granting the variance will allow the owner to move forward with a subdivision plan for the property. While subdivision is not guaranteed, this is a unique case as the parcel has three existing homes. The owner intends to separate each home onto its own parcel, which will bring the property further into compliance with the county code.

DECISION: On a motion made by Mrs. Hudson and seconded by Mr. Carter, the Board of Adjustment voted 6 in favor of the motion, 1 opposed, to grant **APPROVAL** of application A-25-19, thus granting a variance from the required front setback of 30' to legalize the placement of the existing home at 22.3' from the front property line, as shown on Exhibit B, attached hereto. The support of this motion was based on the public testimony, the character of the area, that the variance would not impact the neighbors, and that the restriction would cause financial hardship for the owner.

NOTES:

1. The applicant is 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: 9/18, 2025