



Item Cover Page

BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: August 21, 2025

SUBMITTED BY: Jamie Fenske, Planning Services

ITEM TYPE: Application

AGENDA SECTION:
Public Hearing

SUBJECT:
A-25-20 Douglas J. Annand (Owners: Rocky P. & Jacqueline L. Kessler)
Tax Map No. 6-00-192.00-01-38.00-000

ATTACHMENTS:
[A-25-20 Annand Notice of Application](#)
[A-25-20 Annand Staff Report](#)
[A-25-20 Annand Exhibit A](#)
[A-25-20 Annand Exhibit B](#)
[A-25-20 Annand Plot Plan](#)



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-25-20 Douglas J. Annand (Owners: Rocky P. & Jacqueline L. Kessler) seeks a variance from the 5' rear setback to legalize an existing detached garage (**§205-85.B. of the Kent County Code**). The property is located on the south side of Andrewville Rd., approximately 567' east of Todds Chapel Rd., west of Farmington. Levy Court District: 6th. Zoning District: AR. **Tax Map No. 6-00-192.00-01-38.00-000**

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-25-20

APPLICANT: Douglas Annand
10027 North Old State Rd.
Lincoln, DE 19960

OWNER: Rocky P. & Jacqueline L. Kessler
2814 Andrewville Rd
Greenwood, DE 19950

NATURE OF REQUEST:

A-25-20 Douglas J. Annand (Owners: Rocky P. & Jacqueline L. Kessler) seeks a variance from the 5' rear setback to legalize an existing detached garage (§205-85.B. of the Kent County Code). The property is located on the south side of Andrewville Rd., approximately 567' east of Todds Chapel Rd., west of Farmington. Levy Court District: 6th. Zoning District: AR. **Tax Map No. 6-00-192.00-01-38.00-000**

The applicant is requesting a variance from the requirement that an accessory structure be located a minimum of 5' from a rear property line to legalize an existing detached garage. The garage is 3.7' from the property line at the closest point, requiring a variance of 1.3'.

I. STAFF RECOMMENDATION:

The Staff have reviewed the information presented by the applicant and recommends that the Board strongly consider all public testimony in making their decision. The Staff recommends **APPROVAL** 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:
None.

Staff Response:
As shown on Exhibit A, the subject site is zoned AR (Agricultural Residential). All surrounding adjacent properties are similarly zoned AR. Accessory structures are

permitted within the zoning district, provided they meet the necessary area and bulk restrictions.

2. The character and uses of the immediate vicinity.

Applicant Response:

None.

Staff Response:

The character of the surrounding area is primarily residential, with some agricultural uses and wooded parcels nearby. Surrounding properties are improved with single family homes and accessory structures. Some of the surrounding properties are improved with agricultural buildings. The subject building is within character of the surrounding area.

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

Applicant Response:

None.

Staff Response:

Removal of the 5' setback to legalize the existing accessory structure is not likely to seriously affect the neighboring properties. The garage was constructed by an approved permit in 2001, proposed to be 6' from the rear property line. Only a portion of the structure encroaches on the setback. The structure is surrounded by woods on the neighbor's side. No comments have been received from the neighbor at this point. As such, a decision by the Board to legalize its existing location is not likely to impact the surrounding 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 garage is in a residential area behind the Kessler's dwelling. It was built there 20 years ago. The builder mistakened an iron pipe for a property corner, which it was not. The infraction was recently discovered during a lot line adjustment survey in which the Kesslers will be conveyed a 0.112 acre parcel to be added to their land. This conveyance will greatly improve their property. In order for this conveyance to take place this variance must be granted.

Staff Response:

Failure to remove the restriction of an accessory structure having a 5' rear setback

would create an exceptional practical difficulty for the property owner. The encroachment within the rear setback is minimal as the western rear corner of the detached garage meets the required 5' setback. The applicant could remove the portion of the building that does not meet the setback. However, this would be a hardship for the owner that outweighs the minimal impact of the encroachment.

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 requirement that an accessory structure be located a minimum of 5' from a rear property line to legalize an existing detached garage. The garage is 3.7' from the property line at the closest point, requiring a variance of 1.3'.
- The subject site is 0.45± acre and is currently improved with a single-family home and a detached garage.
- There have been no previous Board of Adjustment applications on the subject site.
- There have been no other Board of Adjustment applications in the surrounding area similar to this request.

ENC: Exhibit A
Exhibit B
Plot Plan



KENT COUNTY

Board of Adjustment

LOCATION AND ZONING MAP

A-25-20 Exhibit A

APPLICANT:

Douglas J. Annand

OWNER:

Rocky P. & Jacqueline L. Kessler

PRESENT ZONING DISTRICT:

AR (Agricultural Residential)

PROPOSED VARIANCE:

Variance from the 5' rear setback requirement to legalize an existing detached garage

PRESENT USE: Residential**PROPOSED USE:**

Same with legalized detached garage

LEVY COURT DISTRICT:

6th - Hertz

TAX MAP NO:

MN-00-192.00-01-38.00-000

LOCATION: Located on the south side of Andrewville Rd., approximately 567' east of Todds Chapel Rd., west of Farmington

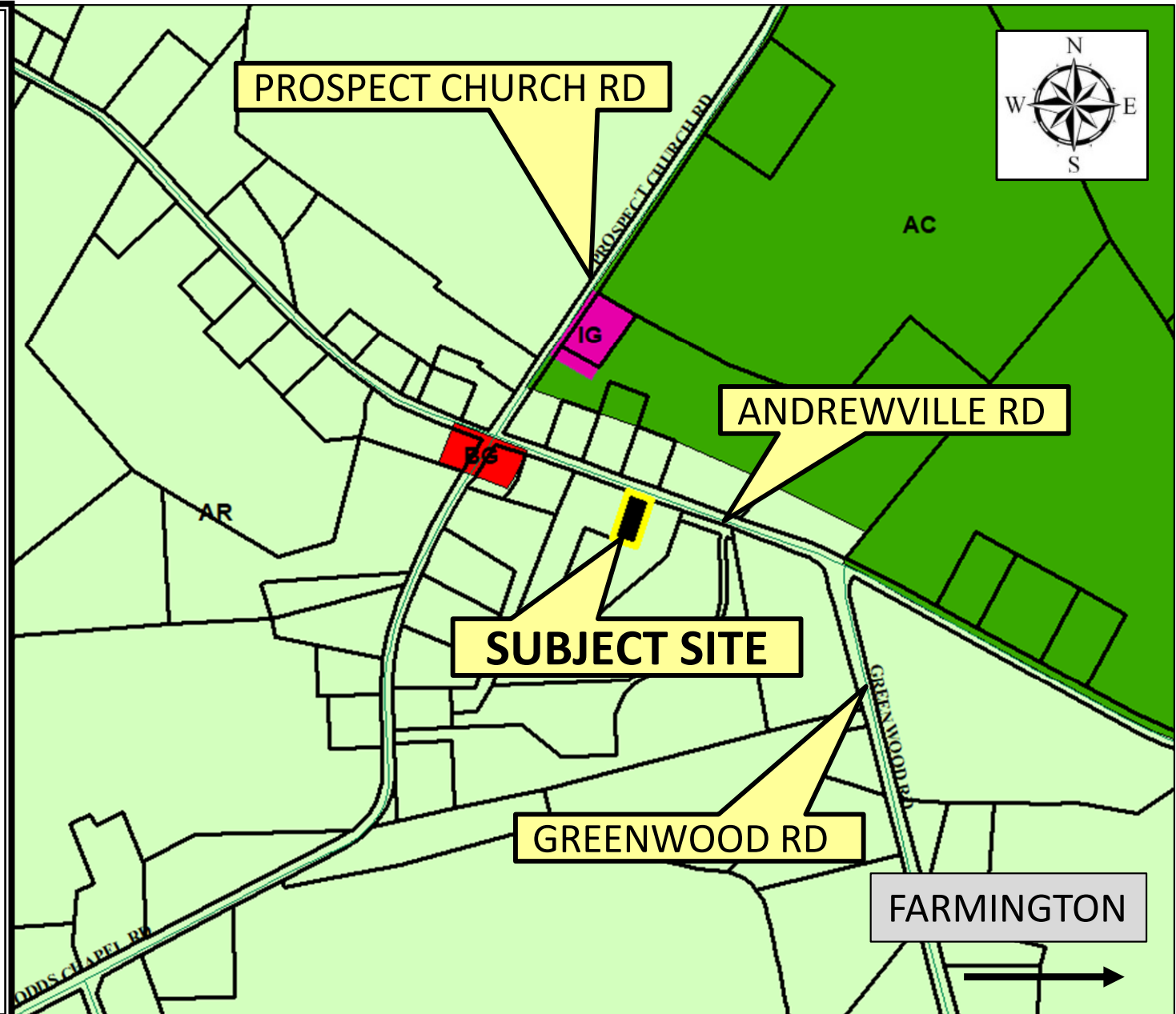
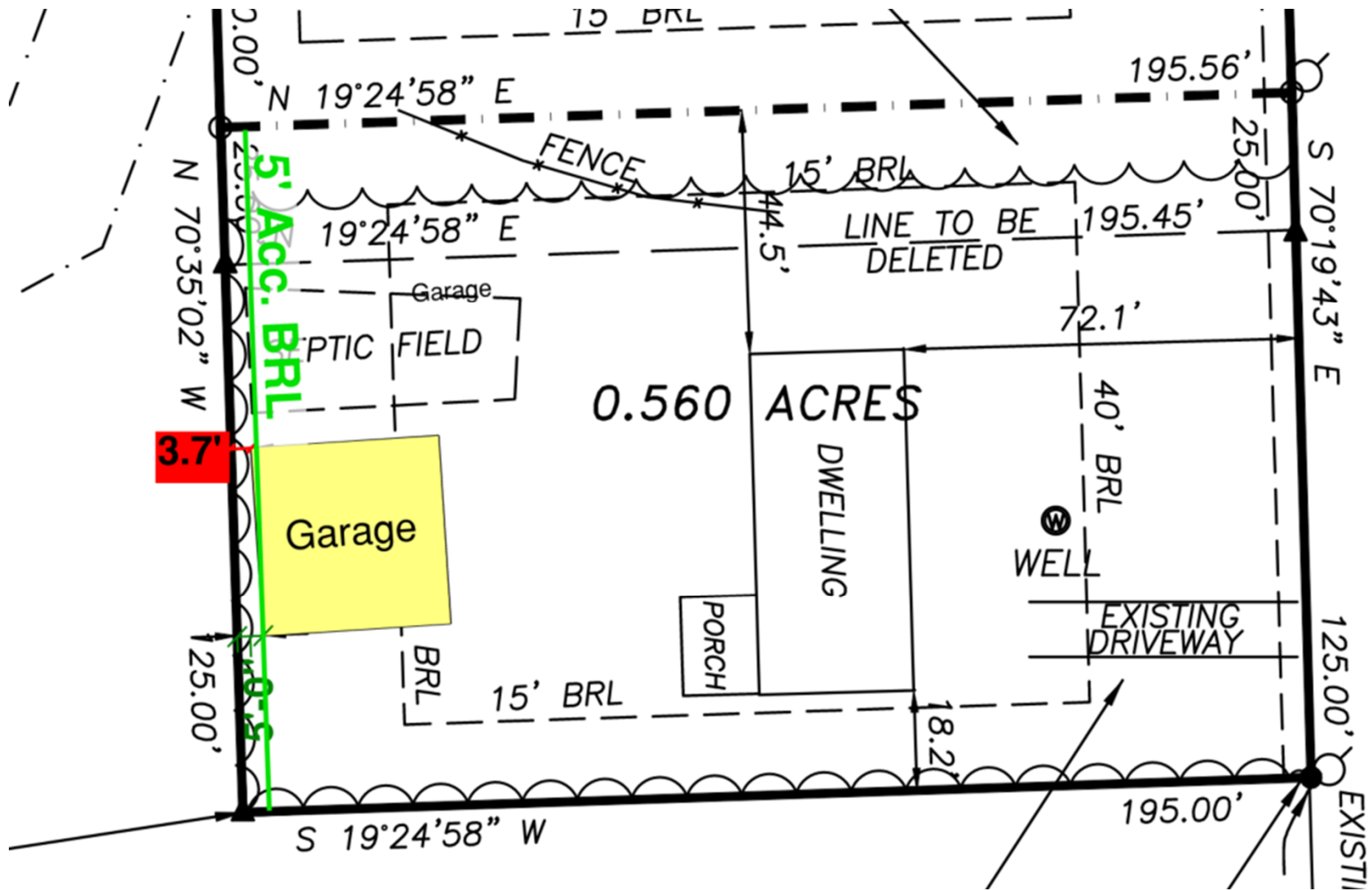


Exhibit B

Application: A-25-20

Annand (Kessler)

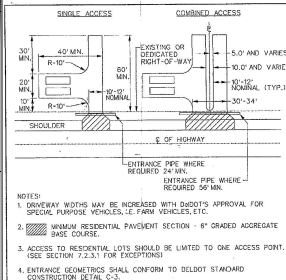
Variance from the 5' rear setback to legalize an existing detached garage



DELDOT NOTES:

- ALL ENTRANCES SHALL CONFORM TO DELDOT'S DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO ITS APPROVAL.
- SHRUBBERY, PLANTINGS, SIGNS AND/OR OTHER VISUAL BARRIERS THAT COULD OBSTRUCT THE SIGHT DISTANCE OF A DRIVER PREPARING TO ENTER THE ROADWAY ARE PROHIBITED WITHIN THE DEFINED DEPARTURE SIGHT TRIANGLE AREA ESTABLISHED ON THIS PLAN. IF THE ESTABLISHED SIGHT TRIANGLE AREA IS OUTSIDE THE RIGHT-OF-WAY OR PROJECTS ONTO AN ADJACENT PROPERTY OWNER'S LAND, A SIGHT EASEMENT SHOULD BE ESTABLISHED AND RECORDED WITH ALL AFFECTED PROPERTY OWNERS TO MAINTAIN THE REQUIRED SIGHT DISTANCE.
- OTHER THAN SHOWN, THIS SURVEY PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS-OF-WAY OR EASEMENTS ON THIS PROPERTY. NO TITLE SEARCH WAS REQUESTED OR PERFORMED.
- THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS ALONG THE FRONTAGE OF ROAD RIGHT-OF-WAY AT PROPERTY CORNERS AND AT EACH CHANGE IN RIGHT-OF-WAY ALIGNMENT IN ACCORDANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL AND THE REQUIREMENTS OF THE LAND USE AGENCY.
- ALL ENTRANCES SHALL CONFORM TO CHAPTER 7 AND FIGURE 7.2.3.3-a OF DELDOT'S DEVELOPMENT COORDINATION MANUAL.
- IF EXISTING ENTRANCES ARE ALTERED, THEY SHALL CONFORM TO DELDOT'S DEVELOPMENT COORDINATION MANUAL (DCM) AND SHALL BE SUBJECT TO ITS APPROVAL. NO CONSTRUCTION ACTIVITY SHALL OCCUR IN THE RIGHT-OF-WAY (ROW) WITHOUT A DELDOT PERMIT.
- TAX MAP PARCEL 1.01 & 39.02 SHALL HAVE A ACCESS TO & FROM KCR 61 & KCR 114, VIA THE EXISTING ENTRANCES, AS SHOWN.
- THE NEAREST TRANSPORTATION IMPROVEMENT DISTRICT IS NORTHEAST 10 MILES TO THE MILFORD TID IN OPERATION.

Figure 7.2.3.3-a Residential Access Design Requirements



DELDOT DESIGN FIGURE 7.2.3.3-a

DATA CO.

- TAX MAP NO. MN-00-192.00-01-37.02, 38.00, 39.01 & 39.02.
- ZONING CLASSIFICATION: AR
- TOTAL NUMBER OF LOTS - 4 EXISTING, 0 NEW
- SETBACKS: FRONT - 40' SIDE - 15' REAR - 30'
- TOTAL ACREAGE WITHIN BOUNDARIES - 6.650 ACRES
- TOTAL ACREAGE WITHIN STREETS - NA
- TOTAL ACREAGE WITHIN EACH LOT PRIOR TO ADJUSTMENT - TAX MAP PARCEL 37.02 - 0.881 ACRES TAX MAP PARCEL 38.00 - 0.448 ACRES TAX MAP PARCEL 39.01 - 2.332 ACRES TAX MAP PARCEL 39.02 - 2.989 ACRES
- TOTAL ACREAGE WITHIN EACH LOT AFTER ADJUSTMENT - TAX MAP PARCEL 37.02 - 1.313 ACRES TAX MAP PARCEL 38.00 - 0.560 ACRES TAX MAP PARCEL 39.01 - 2.220 ACRES TAX MAP PARCEL 39.02 - 2.557 ACRES
- AMOUNT OF AREA AFFECTED BY THE LOT LINE ADJUSTMENT - 0.544 ACRES
- TOTAL ACREAGE WITHIN OTHER BOUNDARIES - NA
- DENSITY - 0.602 LOTS PER GROSS ACRE
- NUMBER OF PERMANENT MONUMENTS - FOUND - 15, SET - 5
- TYPE OF UTILITIES - WELL & SEPTIC (ON SITE)
- RELATION TO GROWTH ZONE - OUTSIDE
- THIS ENTIRE TAX MAP PARCEL FALLS WITHIN THE LIMITS OF ZONE X, OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, FIRM PANEL 1000100410, EFFECTIVE 06/20/2018. THERE IS NO IMPACT TO THE SUBJECT SITE.
- NO EASEMENTS FOUND OR CREATED AS PER THIS PLAN.
- PRESENT USE - RESIDENTIAL
- PROPOSED USE - RESIDENTIAL
- OWNERS: TODD A. WISE 2884 ANDREWVILLE ROAD GREENWOOD, DE 19950 302-932-9727 info@quillflow.com ROCKY P. & JACQUELINE L. KESSLER 2814 ANDREWVILLE ROAD GREENWOOD, DE 19950

SURVEYOR'S CERTIFICATION:

I, DOUGLAS J. ANNAND, HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY KNOWLEDGE AND BELIEF REPRESENTS GOOD SURVEYING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

DOUGLAS J. ANNAND, PLS 622

DATE

OWNER'S CERTIFICATION:

WE, THE UNDERSIGNED, TODD A. WISE, ROCKY P. KESSLER & JACQUELINE L. KESSLER, HEREBY CERTIFY THAT WE ARE THE LEGAL OWNERS OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, AND THAT WE ACKNOWLEDGE THE SAME TO BE OUR ACT AND THAT WE DESIRE THE PLAN TO BE RECORDED ACCORDING TO THE LAW.

TODD A. WISE

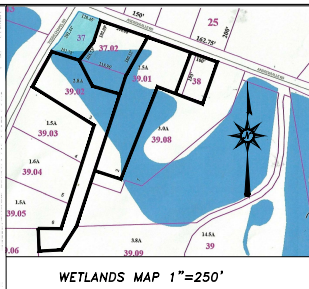
DATE

ROCKY P. KESSLER

DATE

JACQUELINE L. KESSLER

DATE



DELDOT DESIGN FIGURE 7.2.3.3-a

WETLANDS NOTE:

THIS PROPERTY MAY BE IMPACTED BY WETLANDS. KENT COUNTY HAS REGULATIONS REGARDING THE PRESERVATION OF WETLANDS AND THE DEVELOPER IS ADVISED TO CONSULT THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC) TO DETERMINE IF WETLANDS EXIST.

STREAMS, DITCHES, PONDS, LAKES NOTE:

THIS PROPERTY IS IMPACTED BY STREAMS, DITCHES, PONDS OR LAKES. KENT COUNTY HAS REGULATIONS REGARDING THE PRESERVATION OF STREAMS, DITCHES, PONDS OR LAKES AND THE DEVELOPER IS ADVISED TO CONSULT WITH KENT COUNTY PLANNING SERVICES TO DETERMINE THE SETBACKS FROM STREAMS, DITCHES, PONDS OR LAKES.

AGRICULTURAL USE PROTECTION NOTE:

THIS PROPERTY IS LOCATED IN THE VICINITY OF LAND PRIMARILY FOR AGRICULTURAL PURPOSES ON WHICH NORMAL AGRICULTURAL USES AND ACTIVITIES HAVE BEEN AFFORDED THE HIGHEST PRIORITY USE STATUS. IF IT CAN BE ANTICIPATED THAT SUCH AGRICULTURAL USES AND ACTIVITIES MAY NOW OR IN THE FUTURE INVOLVE NOISE, DUST, MANURE AND OTHER ODORS, THE USE OF AGRICULTURAL CHEMICALS, NIGHTTIME FARM OPERATIONS & IRRIGATION OVERSPRAY.

KENT COUNTY APPROVAL

NOTES:

- CLASS "B", SUBURBAN SURVEY
- SOURCE OF TITLE: DB. Y 43, PG. 242 DB. Z 53, PG. 59 DB. Z 53, PG. 61 DB. D 194, PG. 138

LEGEND:

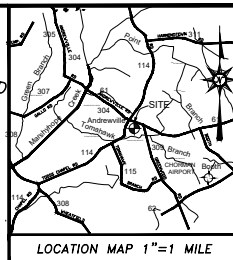
- FOUND IRON PIPE
- ▲ FOUND IRON BAR
- SET IRON PIPE
- UTILITY POLE
- ▲ POINT
- WOODSLINE
- EXISTING PROPERTY LINE
- EXISTING PROPERTY LINE TO BE DELETED
- PROPOSED PROPERTY LINE

DOUGLAS J. ANNAND, PLS 622

PREPARED BY
DOUGLAS J. ANNAND
PROFESSIONAL LAND SURVEYOR
10027 NORTH OLD STATE ROAD
LINCOLN, DELAWARE 19960
TELEPHONE: 302-448-0320
douglasannand7@gmail.com

LOT LINE ADJUSTMENT SURVEY PLAN

PREPARED FOR
TODD A. WISE, ROCKY P. KESSLER
& JACQUELINE L. KESSLER
SITuated IN
MISPILLION HUNDRED, KENT COUNTY, STATE OF DELAWARE
SCALE: 1"=50'
DATE: MAY 27, 2025
REVISED: MAY 30, 2025
REVISED: JUNE 5, 2025
REVISED: JUNE 21, 2025
REVISED: JUNE 28, 2025



KCR 61 - ANDREWVILLE ROAD

(50' WIDE)

FUNCTIONAL CLASSIFICATION - LOCAL

SPEED LIMIT - 50 MPH

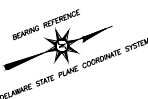
KCR 114 - TODDS CHAPEL ROAD

(50' WIDE)
FUNCTIONAL CLASSIFICATION - LOCAL
SPEED LIMIT - 50 MPH

A 5 FOOT WIDE STRIP IS HEREBY RESERVED FOR THE STATE OF DELAWARE AS PER THIS PLAT, FOR FUTURE RIGHT-OF-WAY NEEDS.

WETLANDS MAP 1"=250'

LOCATION MAP 1"=1 MILE



0 50 100 150