



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

APPLICATION:

A-25-21

APPLICANT/OWNER:

Gregory S. Murphy Trustee
Teresa S. Murphy Trustee
4060 Carpenter Bridge Rd
Felton, DE 19943

ADDITIONAL CONTACT:

Patty Deputy
981 Tomahawk Ln.
Felton, DE 19943

**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-25-21 Gregory S. Murphy Trustee & Teresa S. Murphy Trustee seek a variance from the required 30' front setback for an existing detached garage to enable a minor subdivision **(205-85.A. of the Kent County Code)**. The property is located on the south side of Carpenter Bridge Rd., approximately 0.2 mi. west of Outten Blvd., southwest of Frederica. Levy Court District: 4th. Zoning District: AC. **Tax Map No. 5-00-161.00-01-10.01-000**

The applicant is requesting a variance from the requirement that an accessory structure be setback 30' from the front property line to enable a minor subdivision. The existing detached garage is 6.1' from the proposed private road, requiring a variance of 23.9'.

SUMMARY OF EVIDENCE

1. The subject site is currently 1.042± acre and is improved with a single-family home and a detached accessory building.

2. Mr. Carl Deputy, spoke in favor of the application.
3. Mr. Deputy explained that the existing driveway going back to the farm will be the private road.
4. Mr. Deputy added that the proposed lot is for the property owner's granddaughter and that the adjacent parcels are owned by family as well. He added that there are letters that have been submitted in favor of the application.
5. Mr. Deputy stated they are not seeking any more minor subdivisions at this time.
6. Mr. Deputy detailed that it would cost \$35,000 to \$40,000 to put a black top private road that meets code and is 50' wide on the other side of parcel 10.01. He added that DelDOT is good with everything they are currently proposing.
7. Mr. Greg Murphy, property owner, explained that the subject garage is only used for storage.
8. Mr. Murphy stated that the farm property will always be apart of farmland.

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 AC (Agricultural Conservation). Surrounding adjacent properties are similarly zoned AC. Accessory structures are permitted within the zoning district.
- (2) **The character and uses of the immediate vicinity:** The character of the surrounding area is residential and agricultural in nature. Surrounding properties are improved with single family homes, accessory structures, and agricultural structures.
- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** Removal of the required 30' front setback to place a private road for a minor subdivision 6.1' from the existing detached garage, would not seriously affect the neighboring properties. The neighboring property owners submitted letters in favor of 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 that an accessory structure must maintain a 30' front setback from the proposed private road would create an exceptional practical difficulty for the owners. As proposed, the applicants would be utilizing the existing driveway area for the proposed private road. Creation of a new private road, on the west portion of parcel 10.03 would create a financial hardship for the

applicants.

DECISION: On a motion made by Mrs. Hudson and seconded by Mrs. Denney, the Board of Adjustment voted 7 in favor of the motion, to grant **APPROVAL** of application A-25-21, thus granting a variance from requirement that an accessory structure be setback 30' from the front property line to enable a minor subdivision and allow an existing detached garage 6.1' from the proposed private road, as shown on Exhibit B, attached hereto. The support of this motion was based on the proposed stays in character of the area, testimony given, support of the adjacent property owners, and failure would cause exceptional practical difficulty.

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).
2. The applicants are advised that a minor subdivision plan shall be submitted to the Planning Department. For more information, contact the Division of Planning at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.
3. This variance will expire after ONE YEAR if a permit has not been submitted to the Division of Planning.

KENT COUNTY BOARD OF ADJUSTMENT



Brian Cusick, Chairperson

DECISION FILED: 9/18, 2025