



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

APPLICATION: A-25-27

APPLICANT/OWNER: Mispillion Realty, LLC
6103 S Rehoboth
Milford, DE 19963

PROPERTY LOCATION: Cypress Branch Rd.
Magnolia, DE 19962

**DATE OF PUBLIC HEARING
& DECISION:** September 18, 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-25-27 Mispillion Realty, LLC seeks a 25% expansion of a nonconforming use to construct an additional duplex building (§205-218.A. of the **Kent County Code**). The property is located on the north side of Cypress Branch Rd., approximately 742' east of Sorghum Mill Rd., south of Dover. Levy Court District: 5th. Zoning: RMH. **Tax Map No. 7-00-095.11-01-3700-000**

The applicant is requesting a variance to enable an expansion of a legal nonconforming use by 20%. The applicant is proposing to construct one 1,300 sq. ft. ± duplex. There are 4 duplexes and 2 single family dwellings existing on the parcel.

SUMMARY OF EVIDENCE

1. The subject site is 2.0+/- ac. in size and is currently improved with 4 duplex buildings and 2 single family dwellings.
2. Mr. Jamie Masten, applicant, spoke in favor of the application.

3. Mr. Masten stated that he met with the Planning Department first to discuss the additional duplex. He added that he has already replaced the old duplexes as they were not in good shape. He is looking to rebuild the two single family dwellings on the property as well.
4. Mr. Masten detailed that the four duplexes and two single family dwellings were on a septic up until approximately 2019 when he connected the existing structures to Kent County central sewer.
5. Mr. Masten added that the proposed duplex will not negatively impact the area. He explained that the duplex will go behind the existing single family dwellings and will utilize the existing driveway for the parcel.
6. Mr. Masten explained that there will be plenty of parking on the site for the existing and the proposed duplex.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Analysis of the four factors set forth in §205-218.A. of the Kent County Code supports granting **APPROVAL** of the requested non-conforming expansion.

- (1) **The proposed extension or enlargement does not change to less restricted and more intense use:** As shown on Exhibit A, the subject site is zoned RMH (Residential Manufactured Home). Surrounding properties to the west are similarly zoned RMH and parcels to the north, east, and south are zoned AC (Agricultural Conservation). The proposed duplex is keeping within the nature of the activity that is already occurring on the parcel.
- (2) **The extension or enlargement does not exceed 25% of the gross square footage in use at the time of the creation of the nonconformity:** The proposed duplex would amount to a 20% increase to the existing 10 units on the parcel. There are currently 4 duplexes and 2 single family dwellings on the subject property.
- (3) **The extension or enlargement will not violate the height or coverage regulations for the district:** The maximum height for principal structures in the RMH zoning district is 35'. The proposed duplex is 24' in height.
- (4) **The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood:** The enlargement will not adversely impact the adjacent property owners. The property is proposing to utilize the existing entrance for the proposed duplex. The additional duplex will not negatively alter the surrounding neighborhood's physical scale as it will be located behind the existing two single family dwellings.

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 recused (Mr. Jones), to grant **APPROVAL** of application A-25-27, thus granting a variance to enable an expansion of a legal nonconforming use by 20% to permit the construction of a duplex, as shown on Exhibit B, attached hereto. The support

of this motion was based on staff recommendation, public testimony, and the proposed does not negatively affect the neighboring properties, and the proposed is not more than 25% expansion of the legal non-conforming use.

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).
2. The applicant is advised that a building permit shall be obtained prior to the commencement of construction. For more information, contact the Permitting Department at (302)744-2451 between 8:00a.m. and 5:00p.m.
3. This variance will expire after **ONE YEAR** if a site plan application has not been submitted to the Division of Planning.

KENT COUNTY BOARD OF ADJUSTMENT



Brian Cusick, Chairperson

DECISION FILED: 10/16, 2025

**Application: A-25-27
Mispillion Realty, LLC**

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