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BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: December 18, 2025

SUBMITTED BY: Adam Lyncha, Planning Services

ITEM TYPE: Application

AGENDA SECTION: **Public Hearing**

SUBJECT: **A-25-32** Jesse A. & Nancy L. Miles
Tax Map No. 7-00-119.00-02-09.01-000

ATTACHMENTS:
[A-25-32 Miles - Staff Report](#)
[A-25-32 Miles - Exhibit A](#)
[A-25-32 Miles - Exhibit B](#)



DEPARTMENT OF PLANNING SERVICES

STAFF RECOMMENDATION REPORT

December 18, 2025

APPLICATION:

A-25-32

APPLICANTS/OWNER:

Jesse A. & Nancy L. Miles
316 Kersey Rd
Viola, DE 19979

NATURE OF REQUEST:

A-25-32 Jesse A. & Nancy L. Miles seek a variance from the required 15' side setback to enable the construction of an attached garage (**§205-82.B.(2) of the Kent County Code**). The property is located on the south side of Kersey Rd., approx. 0.3 miles east of Firetower Rd., west of Viola. Levy Court District: 5th. Zoning District: AR. **Tax Map No. 7-00-119.00-02-09.01-000**

The applicants are requesting a variance from the provision stating that principal structures must be 15' from the side property line. The applicants are proposing to construct a 28' x 28' attached garage 11' from the side property line.

I. STAFF RECOMMENDATION:

The Staff has reviewed the information presented by the applicants 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 applicants 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) outside the growth zone. Single-family homes with attached garages are permitted uses within the zone, contingent upon meeting all size and setback requirements as set by the Zoning Code of Kent County.

2. The character and uses of the immediate vicinity.

Applicant Response:
None.

Staff Response:

The character of the surrounding area is residential and agricultural in nature. Properties in the near vicinity appear to be residentially developed with single family dwellings and accessory buildings. The property to the south is utilized agriculturally and does not have any improvements. No properties in the immediate area have principal structures that are closer than 15' from the side property line.

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 required 15' side setback may seriously affect neighboring properties. The 15' required side setback provides a buffer to neighboring homes. They could construct a 24' wide garage that would maintain the required 15' side setback. The subject parcel is approximately 371'± in depth and would allow for the applicants to extend the garage further than the proposed 28' to allow for area for the ramp.

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:

This variance will allow for the garage to be built with a wheelchair ramp inside connected to the house. The ramp connecting to the house will allow us to remain in our home throughout our old age. During inclement weather, the covered ramp will help prevent falls that have happened in the past. Having the garage attached to the house enables us to come and go with ease. Without the variance, the garage could not be built large enough to include the wheelchair ramp.

Staff Response:

Failure to remove the restriction would not create an exceptional practical difficulty for the property owners in relation to making normal improvements to the property. The applicants could construct a detached accessory structure with a required 5' side setback. Another code compliant option would be to reduce the width of the proposed attached garage to be 24' to meet the required 15' principal structure side setback.

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 1.3± acres and is improved with a single-family dwelling, a 1,504 sq. ft. detached accessory building, and a 280 sq. ft. shed.
- There have been no previous Board of Adjustment applications on the subject site.
- There has been one Board of Adjustment application in the surrounding area similar to this request:
 - A-89-82, for a parcel 110' east of the subject parcel, from the required 25' principal structure side setback. The Board granted a 22.5' principal structure side setback on 1/18/1990.
- The applicants are advised that, should the request be granted, a Building Permit shall be obtained prior to the commencement of construction. For more information, contact the Division of Inspections and Enforcement at (302)-744-2451 between 8:00a.m. and 5:00p.m.

ENC: Exhibit A
Exhibit B



KENT COUNTY

Board of Adjustment

LOCATION AND ZONING MAP

A-25-32 Exhibit A

APPLICANT/OWNER:

Jesse A. & Nancy L. Miles

PRESENT ZONING DISTRICT:

AR (Agricultural Residential)

PROPOSED VARIANCE:

Variance from the required 15' side setback to enable the construction of an attached garage

PRESENT USE: Residential

PROPOSED USE: Same with attached garage

LEVY COURT DISTRICT:

5th - Sweeney

TAX MAP NO:

NM-00-119.00-02-09.01-000

LOCATION: Located on the south side of Kersey Rd., approx. 0.3 miles east of Firetower Rd., west of Viola.

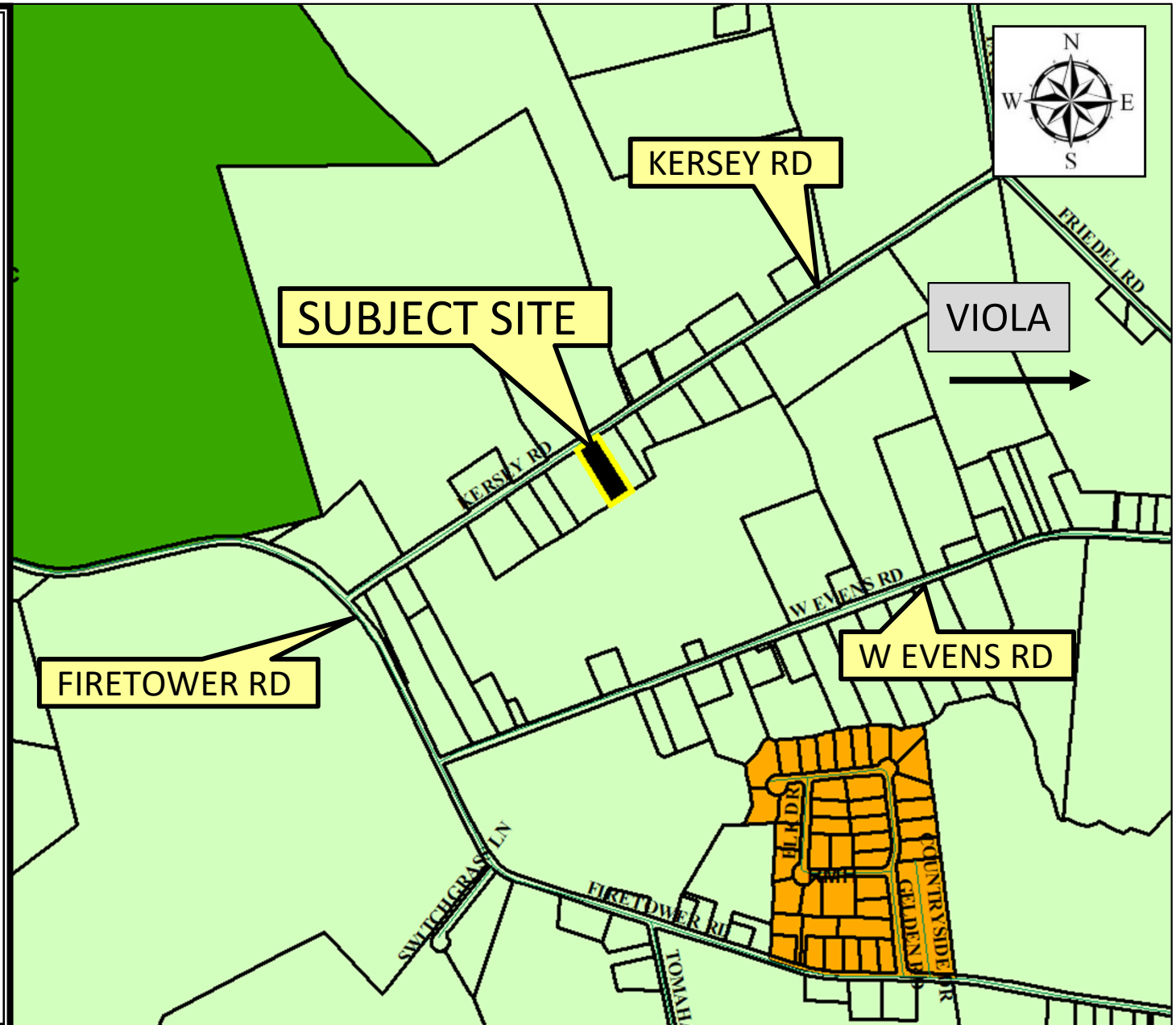


Exhibit B

Application: A-25-32
Miles

Variance from the required 15' setback to enable the construction of an attached garage

