



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

APPLICATION: A-26-01

APPLICANTS: Douglas A. & Cyndi Jacobs
714 Woodland Ave.
Eagleville, PA 19403

OWNER: Douglas Albert Jacobs
714 Woodland Ave.
Eagleville, PA 19403

ADDITIONAL CONTACT: Laura Simpson
1 Dorman St.
Harrington, DE 19952

PROPERTY LOCATION: N. Bay Dr.
Dover, DE 19901

**DATE OF PUBLIC HEARING
& DECISION:** January 22, 2026

MEMBERS PRESENT: Brian Cusick, Chairperson
Morgan Hudson, Vice Chair
Joan Denney
Brauncy Jenkins
George Gallo, Jr.
Ethan Simpson

NATURE OF REQUEST:

A-26-01 Douglas A. & Cyndi Jacobs (Owner: Douglas Albert Jacobs) seek a variance from the required 25' front setback to enable the construction of a dwelling (§205-216.A(1) of the Kent County Code). The property is located on the east side of N Bay Dr., approx. 0.45 miles north of Kitts Hummock Rd, southeast of Dover. Levy Court District: 3rd. Zoning District: AR. Tax Map No. 2-00-097.16-01-27.00-000

The applicants are requesting a front setback of 10' to enable the construction of a single-family dwelling.

SUMMARY OF EVIDENCE

1. The subject site is 0.141± acres and is unimproved.
2. Mr. Darren Simpson, who works for the applicant's builder, spoke in favor of the application.
3. Mr. Simpson stated that he was present on behalf of the property owner and that they are requesting a 10' setback instead of the required 25'. He explained that this is in keeping with the neighboring properties, as indicated in the Staff Report, because the properties on either side have been granted similar variances and are built or in the process of being built.
4. Mr. Simpson said that the practical difficulty would be that the 25' setback limits the size and shape of the house, so they are asking for the variance in order to maximize the footprint of the house and the usable space on the lot. He added that the 25' setback would only allow a house that is 28' deep, and it would be set further back than all the other houses in the area.
5. Mr. Simpson stated that the house will have to be elevated and on pilings. He explained that the owners will be able to park underneath the house, so allowing it to be 10' from the front property line will not impose on the street. He added that the 10' side setbacks are fine, as they have a 50' width of buildable area.
6. Mr. Simpson explained that the DNREC Build Restriction line is not the issue, but that the DNREC easement line is. He said that the Do Not Build Line is closer to the water and outside of the building envelope. He added that this property also has a DNREC easement, which he believes is for access for things like beach replenishment, and that this easement is the issue because it crosses the building envelope pretty far in.

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 single-family 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 residential and natural. The parcels on the west side of N Bay Dr. are mostly vacant parcels that are primarily wetlands. However, a majority of the parcels along the east side of N Bay Dr. are improved with single-family dwellings. The lots are mostly narrow in width, about 50'-80', and several have been granted variances from the front setback.
- (3) **Whether removal of the restriction on the applicant's property would seriously affect**

the neighboring properties: The reduction of the 25' front setback to a 10' setback would not seriously affect neighboring properties. Most of the properties in the area have homes that are a similar distance or closer to their front property lines, so allowing the placement of a home 10' from the property line would place it in line with the other homes and would not block the line of site for the neighboring properties. Additionally, no objections were received regarding 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 of the required 25' front setback would create an unnecessary hardship or exceptional practical difficulty for the applicant in relation to making normal improvements to the property. The DNREC Building Restriction line in the rear significantly reduces the buildable area on the property. This is why several of the adjacent parcels have received similar variances in the past. This parcel is also subject to an additional DNREC easement, which further reduces the buildable area.

DECISION: On a motion made by Mrs. Hudson and seconded by Mrs. Denney, the Board of Adjustment voted 5 in favor, 1 recused, of the motion to grant **APPROVAL** of application A-26-01, thus granting a variance from the required 25' front setback to enable the construction of a dwelling 10' from the front property line, as shown on Exhibit B, attached hereto. The support of this motion was based on the staff recommendation, that removing the restriction will not seriously impact the neighboring properties, and that there is an exceptional practical difficulty created by the DNREC Building Restriction Line and easement.

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 Building Permit shall be obtained prior to the commencement of any construction. For more information, contact the Division of Planning at (302) 744-2471 or the Department of Inspections and Enforcement at (302) 744-2451 between 8:00 a.m. and 5:00 p.m.
3. This variance will expire after **ONE YEAR** if a building permit has not been submitted to the Division of Planning.

KENT COUNTY BOARD OF ADJUSTMENT



Brian Cusick, Chairperson

DECISION FILED: 2/19, 2026

Exhibit B

Application: A-26-01
Jacobs

Variance from the required 25' front setback to enable the construction of a dwelling



