



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

APPLICATION: A-26-06

APPLICANT/OWNER: Bigg Jim's Homes LLC
124 Broadkill Rd Unit 939
Milton, DE 19968

PROPERTY LOCATION: 80 E Poplar St.
Frederica, DE 19946

**DATE OF PUBLIC HEARING
& DECISION:** April 16, 2026

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

NATURE OF REQUEST:

A-26-06 Bigg Jim's Homes LLC seeks a variance from the required 40' front principal structure setback, 25' rear principal structure setback, and from the requirement that an accessory structure shall not be located in the front yard or front setback unless the accessory structure is located at least 100 ft. from the front property line to enable the relocation of a manufactured home (**§205-216.A(1) and 205-85.A. of the Kent County Code**). The property is located on the southeast corner of E Fourth St. and E. Poplar St., southeast of Magnolia. Levy Court District: 4th. Zoning District: RMH. **Tax Map No. 8-00-122.12-01-54.00-000**

The applicants are requesting a variance to relocate the existing manufactured home that crosses the property line to be completely on the subject property. They are requesting the dwelling to be 23.7' from the front property line and 13.3' from the rear property line. They are also requesting to legalize the placement of the existing 166 sq. ft. shed to be 28.7' from the front property line.

SUMMARY OF EVIDENCE

1. The subject parcel is 0.19± acre and is improved with a manufactured home and a shed.

2. Mr. James Hartnett spoke in favor of the application.
3. Mr. Hartnett explained that the manufactured home has been there for a while. It is currently 23.7' from the front property line of Poplar St. and encroaches on to the neighbor's property about 16' to 18'.
4. Mr. Hartnett detailed turning the home will not negatively effect any of the neighbors.
5. Mr. Hartnett stated the shed has been there since approximately 1997.
6. Mr. Hartnett explained turning the house will allow it to go completely onto his property and not affect any of the neighbors.
7. Mr. Hartnett detailed that the manufactured home was in that location when he bought the property. He had a survey done after he bought the property and found out that the home was crossing the property line.
8. Mr. Hartnett explained that he was working with the previous neighbor to rectify the home crossing the property line but unfortunately, he passed away.
9. Mr. Hartnett stated he has to hire someone to relocate the existing manufactured home to be completely on the subject property.
10. Mr. Ed Hallock spoke in favor of the application.
11. Mr. Hallock explained that the home crossed the property line because it was a brother and sister that owned the properties and they were not very careful about where they situated improvements.
12. Mr. Hallock detailed that the current property owner has cleaned up the property and maintained it.
13. Mr. Hallock stated that he has no problem with the request and fully supports the request.
14. Mr. Hallock explained that right now he cannot do anything with the property, so he needs the variance.

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 **APPROVAL** of the requested variance.

- (1) **The nature of the zone where the property lies:** As shown on Exhibit A, the subject parcel is zoned RMH (Residential Manufactured Home) outside the growth zone. Manufactured homes and accessory buildings are permitted uses within the zone, contingent upon meeting bulk and area requirements as set by the Zoning Code of Kent

County.

- (2) **The character and uses of the immediate vicinity:** The character of the surrounding area is residential in nature. Surrounding properties appear to be improved with homes and accessory structures.
- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** Removal of the required 40' front principal structure setback and 25' rear principal structure setback would not seriously affect the neighboring properties. The existing manufactured dwelling is 23.7' from the front property line along E. Poplar St., 20.5' from front property line along Fourth St., and currently crosses the shared property line to the south. The proposed location of the manufactured home will maintain the 23.7' from E. Poplar St. front property line and will be compliant with the required 40' front setback along Fourth St. and the side setback of 15'. Also, the home will be no closer to the rear property line than the existing shed is.

Removal of the restriction that an accessory structure not be located within the front yard or front setback will not seriously affect the neighboring properties. Based on aerials the 166 sq. ft. shed has been on the property since 1997. No objections have been received prior to the hearing regarding the accessory structure.

- (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 front setback of 40' and rear setback of 25' would create an exceptional practical difficulty for the applicant. The parcel is 75' by 110' and is located on a corner with two fronts. If the applicant was required to meet all the setback requirements, there would be a 20' x 45' buildable area on the parcel. The proposed location of the 14' x 73' manufactured dwelling will be no closer to E. Poplar St. than the existing manufactured home, it will be code compliant in relation to the required 40' front setback along E. Fourth St., and the proposed manufactured dwelling will no longer cross the property line.

Failure to remove the restriction that accessory structures shall not be located within the front yard would create an exceptional practical difficulty for the applicant. The property is unique as it is a corner lot with two fronts and is only 0.19± acre in size. The property is narrow, which leaves little room on the property for accessory structures to be placed in compliance with the code requirements.

DECISION: On a motion made by Mrs. Hudson and seconded by Mr. Carter, the Board of Adjustment voted 7 in favor of the motion to grant **APPROVAL** of application A-26-06, thus granting a variance from the required 40' front principal setback, 25' rear principal structure setback, and from the requirement that an accessory structure shall not be located in the front yard or front setback unless the accessory structure is located at least 100' from the front property line to enable the relocation of manufactured home to be 23.7' from the front property line of Poplar St. and 13.3' from the rear property line, and the accessory structure to be 28.7' from the front property line of Fourth St., as shown on Exhibit B, attached hereto. The support of this motion was based on staff recommendation, testimony received, the proposed does not negatively affect

neighboring property owners, and there is an exceptional practical difficulty with the property being located on a corner lot with two fronts.

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 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: 5/21, 2026