



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

### PETITION FOR: VARIANCE – MAXIMUM SIZE FOR AN ACCESSORY DWELLING

Property location:	2960 Bethany Road
Property tax parcel:	045-048B
Acreage:	10 acres
Applicant:	Michael T. Deaton
Applicant's Agent:	
Property Owner:	Michael T. Deaton
Existing Use:	Residence with accessory dwelling
Variance Requested:	Residence with accessory dwelling

#### Summary



Michael T. Deaton is requesting a variance to the maximum size for an accessory dwelling for an existing structure located at 2960 Bethany Road. The primary residence and accessory dwelling are located on a 10 acre parcel with both houses at the front of the property. Both

were constructed in 2017. At that time, the ordinance required the accessory dwelling to be a maximum of 50% of the primary dwelling size. The primary dwelling is 1647 square feet. The accessory dwelling is 800 square feet. They are requesting to double the size of the accessory dwelling.



The applicant contacted Planning Staff several months ago to discuss his dilemma, which was that the accessory dwelling was too small for the number of residents and was seeking to enlarge the accessory dwelling. On two occasions, two Staff members explained the ordinance related to accessory dwellings and recommended that the 10 acre property be split via a legacy exemption. A legacy exemption allowed a property owner to split off the required acreage (5 acres in AG zoning) to

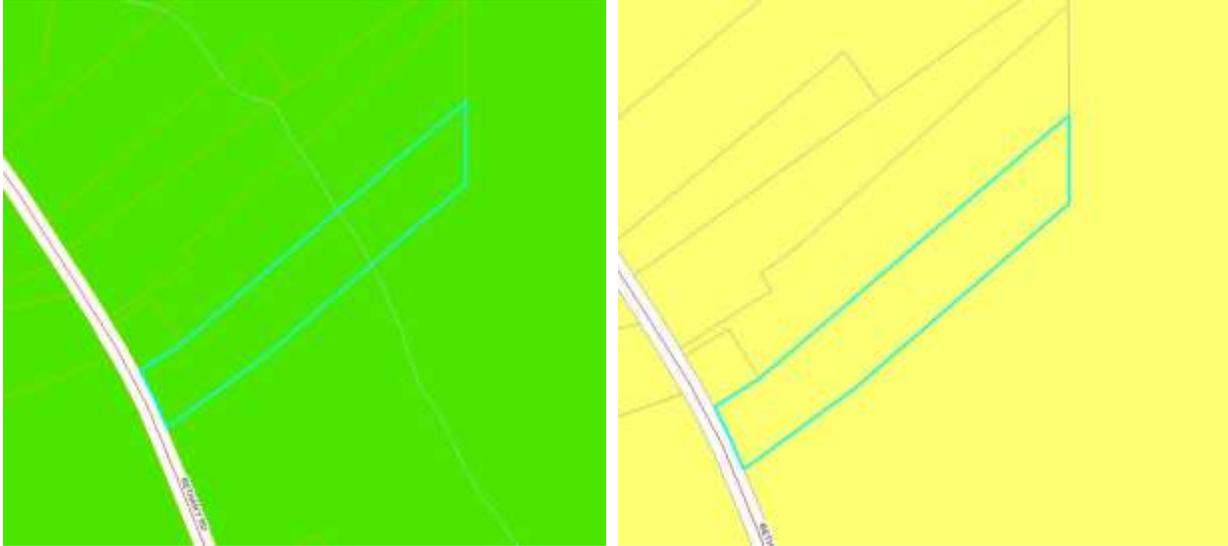
an immediate family member without the required road frontage. In this case, the back half of the property could have been split off, creating (2) 5-acre parcels. This would have allowed another primary dwelling to be constructed on the new parcel with larger square footage. The option to pursue a variance was also discussed, but Staff explained that where a property could be split, a variance could be difficult to obtain. The applicant was also informed that a proposal was forthcoming to remove the legacy exemption for the ordinance. As of October 20, 2020, a 90-day moratorium has been placed on all parcel splits in Morgan County while the Board of Commissioners review proposals to change the Development Regulations related to subdivisions. Among the changes proposed is the removal of the legacy exemption.

The current accessory dwelling (marked with a yellow star in the photo above) is 20 feet deep by 40 feet long. The applicant proposes to add another 20 feet to the back of the structure to double the square footage (see floor plans). The structure is approximately 40 feet from the side property line, so if approved, the addition would not encroach into the side setback.



The accessory dwelling in a photo taken November 4, 2020. The architecture and colors match the primary dwelling. The photo below shows the proximity and layout of the primary dwelling to the accessory dwelling.





The property is zoned AG – Agricultural on the Zoning Map, as indicated by the green color on the map to the left. The map on the right shows the Character Area Map from the Morgan County Comprehensive Plan, which indicates the property is proposed to remain residential.

Chapter 7.2, Section 7.2.2, of the Morgan County Zoning Ordinance requires Conditional Use approval for an accessory dwelling. A variance must be requested if additional square footage is desired. Because this is a grandfathered accessory dwelling, the Applicant is only requesting the Variance. However, Section 7.2.2 also instructs property to be split for a second principal dwelling.

Chapter 7.2 requires that an accessory dwelling have the same address, share the same driveway and be on the same electrical meter. From the Tax Assessor’s records, it does not appear that the accessory dwelling has a separate address. The aerial shows that the dwellings share the same driveway. The Applicant will need to confirm the status of the electrical meter. Consideration should be given whether a condition would be given regarding the electrical meter, if the application is approved and if the meters are separated. The Zoning Ordinance did not require that the meters be separated in 2017. See attached for Chapter 7.2.

## Criteria for Consideration

From the Morgan County Zoning Ordinance. Section 20.3.1, Required Findings for Variance Approval:

1. There are extraordinary and exceptional conditions pertaining to the property because of size, shape and topography;
2. The literal application of this Ordinance would create an unnecessary hardship;
3. A variance would not cause substantial detriment to public good and impair the purposes and intent of this Ordinance;
4. A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district;
5. The special circumstances surrounding the request for the variance are not the result of acts of the applicant;
6. The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;
7. The zoning proposal is consistent with all standards and criteria adopted by Morgan County; The variance is the minimum variance that will make possible an economically viable use of the land, building or structure

## Staff Comments

The accessory dwelling was compliant when it was constructed in 2017 and is still compliant with the maximum square footage according to the current ordinance. The Applicant was advised by Staff to split the property, per the Ordinance, but the option to split the property is not currently available, and presumably will not be available in the future. If approved, the result would be 2 principal dwellings of the same size on one parcel. An approval could set a precedent related to larger accessory dwellings. Two new-construction accessory dwellings with larger square footage have been approved with variances, but the Planning Commission deemed that the purchase of house plans prior to (and without knowledge of) the square footage change in the Zoning Ordinance justified the variances.

The Applicant points out in his letter that the accessory dwelling is currently being used by his daughter and her family, who assist with the hobby farm and may be needed in the future due to a recently diagnosed health issue.

Morgan Count Planning Commission  
150 E. Washington Street, Suite 200  
Madison, GA 30650

Michael Deaton  
2960 Bethany Rd.  
Madison, GA 30650

To whom it may concern;

I am requesting building variance for a small home structure located on my property at the above listed address. My family and I moved to Madison in the fall of 2017 and bought the property and had a main dwelling and an "in-law-suite" constructed and completed in January of 2018. Pursuant to building codes our builder informed us the smaller dwelling could only be one half of the total square footage of the main dwelling. We currently have a main dwelling that is 1602 sq.ft. and the smaller dwelling is 800 sq.ft.

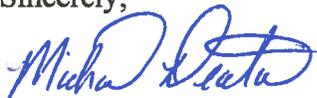
At the time of our move, my daughter's family (2 adults and 2 small children) was going to reside in the smaller dwelling. This is also the current arrangement. Since that time her family has increased in size and now have a family of 5 living in an 800 sq.ft. home. As the children grow, she is quickly running out of living space and a larger home is needed urgently.

The property is used as homesites for my family as well as my daughters and as a small hobby horse farm. They wish to stay at the current location to care for the property and animals. As the owner of the property it is beneficial for me to have them there also. I was diagnosed with macular degeneration last year and will have treatment for the condition the remainder of my life. This condition has the possibility of severe vision disruption that will render me unable to drive and operate machinery needed for the upkeep of the property making my dependence and need for my daughter's family to assume that responsibility.

We would like to increase the 20' X 40' dwelling to a 40' X 40' dwelling (schematic included). This would allow the addition of sufficient space for a family of 5 converting the dwelling from a small 2 bedroom, 1 bath house to a 4 bedroom, 2 bath house. The property is zoned agricultural with a non-working dairy farm adjacent to the smaller dwelling.

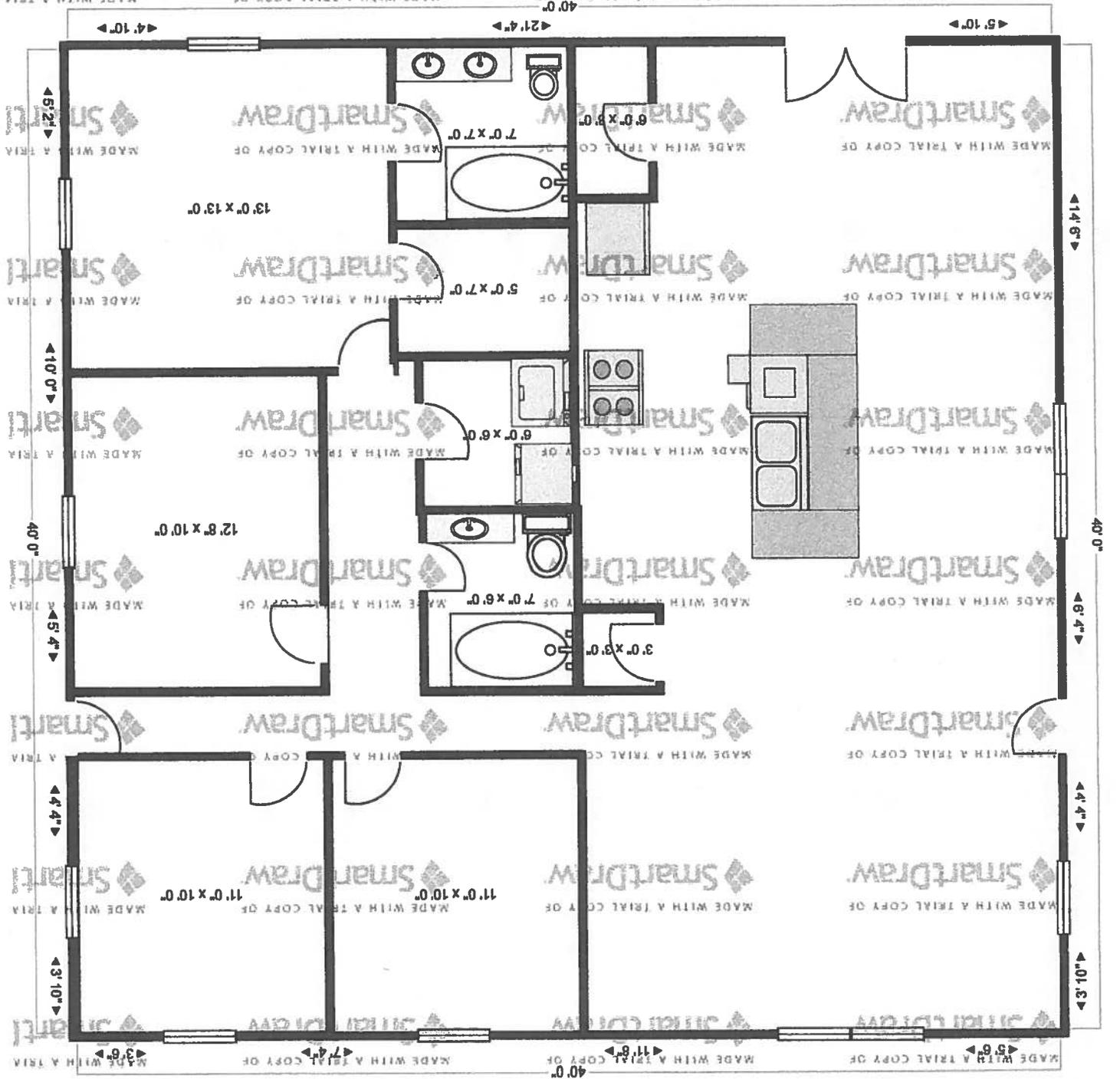
Thank you for your time and consideration.

Sincerely,

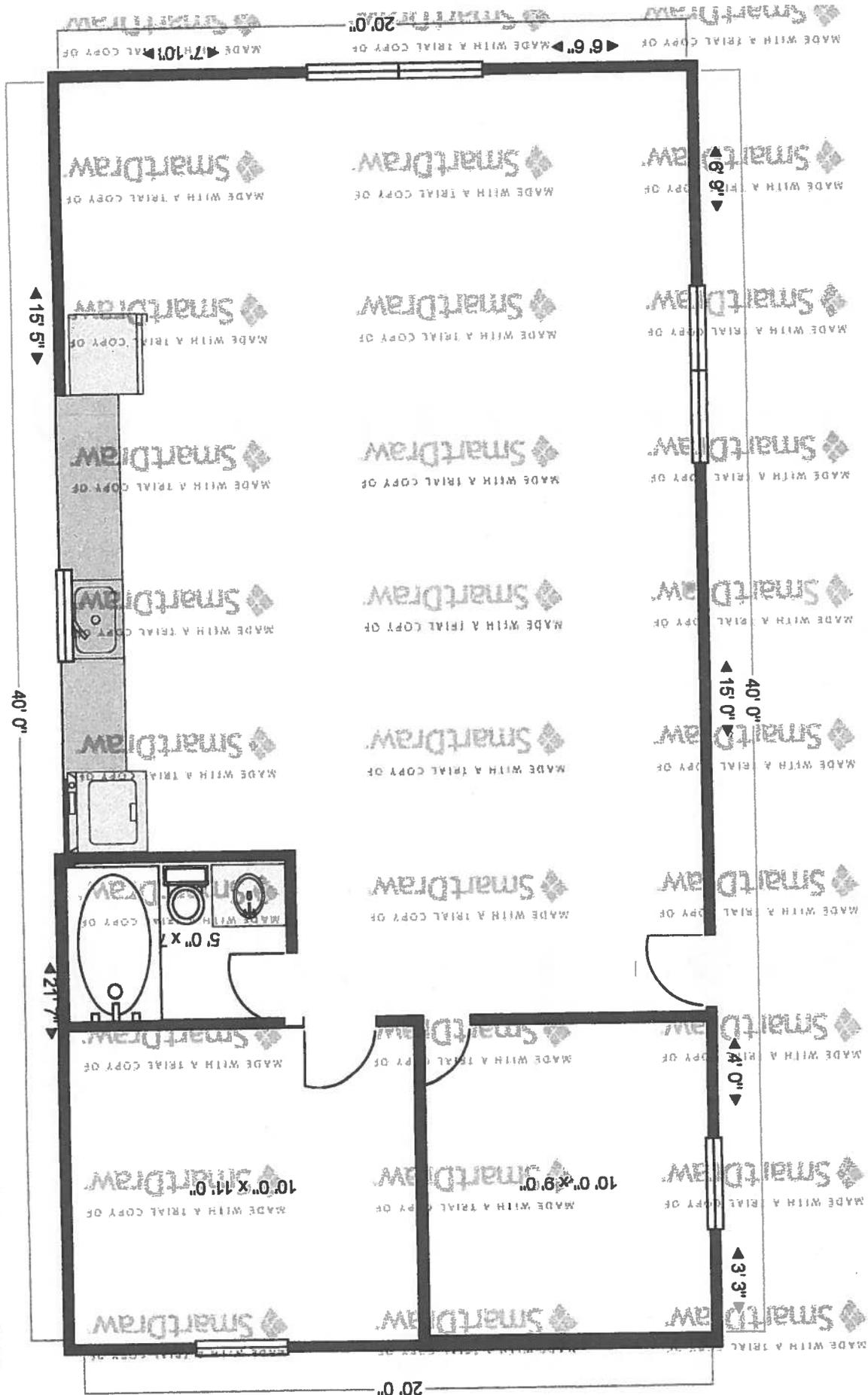


Michael Deaton

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