



**CITY OF DOVER, DELAWARE
BOARD OF ADJUSTMENT MEETING
Wednesday, October 15, 2025 at 9:00 AM**

City Hall Council Chambers, 15 Lockerman Plaza, Dover, Delaware

AGENDA

IN-PERSON & VIRTUAL MEETING

This Board of Adjustment Meeting for October 15, 2025 will be held in City Hall, City Council Chambers. The public is welcome to attend in person. The Meeting will also be provided as a Virtual Meeting using Webex, an audio/video conferencing system as an electronic means of communication. See the participation information below to join by phone or computer.

PUBLIC PARTICIPATION INFORMATION

To Attend City of Dover Board of Adjustment Meeting of October 15, 2025

Join by Phone: Dial 1-650-479-3208

Access Code: 253 706 95093

Password for Phone: 36837262

Join Online: <https://bit.ly/BOA10152025>

Webinar Number: 2537 069 5093

Webinar Password: DoverBOA

If you are new to Webex, get the app now at <https://www.webex.com/> to be ready when the meeting starts. For problems accessing the meeting, please call the Planning Office at (302) 736-7196.

Written comments are accepted via mail to City of Dover – Board of Adjustment,
P.O. Box 475 Dover, DE 19903 and via email at CompPlan@dover.de.us.

WELCOME

ROLL CALL

SELECTION OF ACTING CHAIR for MEETING

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Adoption of Minutes of August 20, 2025
2. Adoption of Minutes of Training Session on September 17, 2025

COMMUNICATIONS & REPORTS

Meeting Reminder: The next Board of Adjustment Meeting date is Wednesday, November 19, 2025 at 9:00 AM.

Status Update: Preparation of DRAFT Rules and Procedure

SPECIAL RECOGNITION

3. Resolution honoring the service of Mr. Kishor C. Sheth to the Board of Adjustment

OLD BUSINESS

NEW BUSINESS

The following Application was filed for Review and Public Hearing before the Board of Adjustment:

4. **Application #V-25-05**

Property at 640 South State Street for the Bayhealth Medical Center – Kent Campus. A Request has been made for two Variances from the requirements of *Zoning Ordinance*, Article 4 §4.15 as associated with a proposed 10-story Hospital Bed Tower Building Addition. Variance Request #1 seeks to increase the allowable height from 150 feet to 175 feet for a new 10-story Hospital Bed Tower. Variance Request #2 seeks a reduction of the minimum 10-foot front yard setback to allow for building encroachment of the Bed Tower Elevators and Stairs where adjacent to South Street. The property is zoned IO (Institutional and Office Zone) and partially subject to the SWPOZ (Source Water Protection Overlay Zone). The owner of record is Bayhealth Medical Center, Inc. Property Addresses: 640 South State Street and 625 South Governors Avenue, Dover DE. The Tax Parcel ID is ED-05-077.13-01-52.00-000.

PUBLIC COMMENTS OPPORTUNITY

ADJOURN

Posted Agenda: October 15, 2025

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(e)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING

**CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
August 20, 2025**

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, August 20, 2025, at 9:04 A.M. in person in the City Council Chambers and using the phone/videoconferencing system Webex. Members present were Chairman Sheth, Mr. Swalm, Mr. Senato, and Mr. Coburn. Mr. Wagner was absent.

Staff members present were the new City Solicitor Mr. Daniel Griffith, Mrs. Melson-Williams, Mr. Salzano and Mrs. Kristen Mullaney (Acting Secretary).

APPROVAL OF AGENDA

Mr. Senato moved for approval of the agenda. The motion was seconded by Mr. Swalm and unanimously carried 4-0. Mr. Wagner was absent.

Chairman Sheth asked if there were any questions.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF JUNE 18, 2025

Mr. Swalm moved for approval of the meeting minutes of June 18, 2025. The motion was seconded by Mr. Coburn and unanimously carried 4-0. Mr. Wagner was absent.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF JULY 16, 2025

Mr. Senato moved for approval of the meeting minutes of July 16, 2025. The motion was seconded by Mr. Swalm and unanimously carried 4-0. Mr. Wagner was absent.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams mentioned that the next Board of Adjustment Meeting is Wednesday, September 17, 2025, at 09:00A.M. We will see if you need to have that meeting. We may use that meeting as an opportunity for some training if there is no application for you to consider.

Mrs. Melson-Williams mentioned for the record that there were no items of Old Business.

Mrs. Melson-Williams read the Procedure Statement for New Business.

Mrs. Melson-Williams noted that the legal notice for this Application was published in the Daily State News on August 3, 2025, and the property owners within 200 feet of the subject site were notified by letter sent by the Planning Office in accordance with the procedures for public notice of a variance application. The meeting agenda was posted on August 13, 2025, in accordance with the Freedom of Information Act requirements.

Chairman Sheth asked if there were any conflicts of interest.

NEW BUSINESS**Application #V-25-04 Calvary Baptist Church Sign Variance Request**

Property at 2285 Forrest Avenue. A Request has been made for a Variance from the requirements of *Zoning Ordinance*, Article 5 §4.7, as associated with a proposed monument sign. The Variance Request seeks an enlargement of the allowable sign area from 12 SF to 70 SF and an increase of the allowable height from 7 feet to 13-feet 7-inches. The property is zoned R-10 (One Family Residence Zone) and is subject to the COZ-1 (Corridor Overlay Zone). The owner of record is Calvary Baptist Church of Dover Delaware Inc. Property Address: 2285 Forrest Avenue, Dover, DE. The Tax Parcel ID is ED-05-075.00-01-06.00-000.

Mr. Chris Salzano gave a brief overview of the Application V-25-04 referencing the Staff Review Report and Recommendations.

Mrs. Melson-Williams stated that the Presentation as noted and the Review Report of the Variance Request were previously provided to the Board and consists of a narrative and a list of Exhibits A through G which consists of submissions by the Applicant, the Application Form, and a series of site maps to provide location information. The Legal Notice was published in the Daily State News on August 3, 2025, and the property owners within 200 feet of the subject's site were notified by Letter sent by the Planning Office, in accordance with the established procedures for the Public Notice.

Mrs. Melson-Williams stated that there are two sections of the Sign Code that can be looked at for the rules for this Sign, which is potentially confusing. While the Code did include a process for a Unified Comprehensive Sign Plan, currently, this campus does not meet the qualifications to utilize that method for establishing signage for the overall property. The Planning Staff noted on page 11 of the Report that they did recommend denial of the Variance as proposed, noting that the Sign does not meet the definition of a Monument Sign as it is taller than it is wide. Its increase is over the height and some of that is encompassed in the base that's proposed for the Sign to sit on. Staff's determination was that the Applicant had not provided clear evidence related to the safety of motorists argument that they were making and some of the other criteria for evaluation. Planning Staff did recommend that there may be consideration of an alternative option to implement signage focusing on that method of Sign placement that is established in Table 2 of the Sign Regulations which would allow for a sign of 32 square feet and 7 feet in height. That may be an amenable option to consider. It is something less than what their proposed request is for the Variance. At this time, you are probably best suited to hear from the Applicant and their presentation on their request.

Chairman Sheth asked questions regarding the voting process if there were not enough members (five members) to break a tie vote and the process. City Solicitor Griffith replied that in a result of a 2 to 2 vote there are multiple options. You already know that it cannot pass without a majority vote. He would suggest if this happened that we adjourn for roughly 5-15 minutes to see if there is a Code of Provision that applies. One option would be to table the Application until we have all members present and the fifth member would break the tie. It's possible that there's a code provision that applies to the tie breaking mechanism under those circumstances. But we will explore those options if necessary. If the ultimate decision is if it does not pass then according to the Code that one year is required before it can come back before the Board. Again,

if the Board determines that it is a 2 to 2 tie and it does not pass for that reason, then the Board can table the Application. Then you will know if it passes or does not pass based on the full complement. I would not suggest that you make an Applicant wait a year because we have one Board member missing.

Mrs. Melson-Williams mentioned that at this point, we should proceed with the Application. If we end up in that situation, there is no specific Code mechanism for a tie vote. We follow Robert's Rules of Order generally. If a motion results in a 2-2 vote, the motion is lost and then a new motion would need to be put forth and to go from there. Certainly, there could be the opportunity if you feel necessary to defer action until there is a full complement of the five members here. I did hear from Mr. Wagner yesterday. He was concerned that he was coming down with a cold; so I believe he may be ill this morning.

Presentation

Representatives: Bishop Wesley James Thomas II and Mr. Dale McCallister.

Bishop Wesley James Thomas II and Mr. Dale McCallister was sworn in by City Solicitor Mr. Griffith.

Presentation

Bishop Thomas stated his name and that he resides at 501 Shrewsbury Court, Dover, Delaware. We are here for the Sign Variance situation here and I am the pastor of Calvary Baptist Church.

Mr. Dale McCallister stated his name as representing Eastern Shore Signs & Graphics at 2015 S. DuPont Highway, Dover, Delaware. He mentioned that he was here to support the Application on behalf of ES Signs. I am the owner of First State Signs, and I worked very closely with Seth who made the Application. I think that Staff put it very well that this Application does not allow for the Comprehensive Sign Plan. I used to come to this Board constantly because of the Sign Code.

Now, most of the Sign issues were addressed in the Comprehensive Sign Plan process. They are neighbors just north of Dover High School where they have a 190 square foot Sign. It's the reason they (Dover High School) do and it's a great sign.

That they didn't have to meet the same rigorous demands that the Sign Code has. So, we read the Staff Report, we see the issue of you having to give us a Variance of 13 feet. It sets a precedent that this Board has always been in my estimation tough of what we've dealt with. So, if we ask for that, you might have to go to somebody else. We understand you as a rule that you do not want to set a precedent. So, we looked at the Staff Report and came up with, and we changed our request after looking at what they requested. As he referred to the Sign presentation board, this was our original Sign, and this is Sign number two; that Sign 2 is at 108 inches which is 9 feet. Our Sign Code is 7 feet. The third sign is 87 inches tall that's 3 inches higher than the Code. Now, the reason we are asking for Sign number two versus Sign number three which is more in compliance is something that the pastor can talk about because in the committee, they looked at the Signs all together. This Sign was designed basically but it wasn't just thought out. It meets

the needs of the church.

It's the bulletin board for the church; it evangelizes the neighborhood and announces marketing of what's coming and going. So, it's critical to the church. They currently have one Downtown. They have a smaller, much smaller message center Downtown and it works very well for them. I would like them to address the facts about the message center and how the committee came up with the design that they liked. Thank you.

Bishop Thomas stated that first, we do have a committee that oversees this project. The initial design was made, kind of unaware, if you will, of some of the specificity for the Sign. And so, we opted for the middle design for the Sign because we believe one, that it is commiserate with the campus that the church is going to be located. It is a 50-acre campus. And so that sign, in our opinion, is commiserate with the size of the campus. The other issue is where the Sign is going to be located is sort of in the ground, but lower which helps us in terms of the height of the Sign. It is not road level; it is below the road level, which is where it is. The other thing is the readability of the Sign because the sign is important to the messaging of the church. It's important to see the information as people are passing. It has also to do with the readability as people are passing to be able to know what's happening in the church and what's happening and what's going on with the programming of the church. So, those things are really important to us as it relates to the to the Sign itself. Those are just some of the things that we're asking for consideration of when it comes to this particular design of our Sign.

Mr. Sheth mentioned that he was just trying to understand. You are showing three (3) different Signs.

Mr. McCallister referred to the Sign that they would like (Sign 2). He referred to the Sign that they applied for (Sign 1). We applied the Staff Recommendation. The Staff Recommendation wanted the Sign to be wider and shorter. So, we took in the Staff Recommendation, and we want to work with the Staff and the city as best we can and ask for the least possible variance that we can ask for so that you don't have to set the precedent. So that's what we are trying to do. We read the Staff Report, and we've done a redesign of the Sign based upon the Staff Recommendation in the Report. So, that's what we think is the minimal amount of variances that we can get and why. Why is the lay of the land, and what we have there is exceptional practical difficulty. If you're familiar with Route 8, it's in that area where it becomes between the city and the county. When you are coming from Maryland, ok, you're on the curve, and that curve in the road makes it very difficult. In fact, when you read that curve, if you're in that curve and you look to the right, there's a clearing of trees and you see the building. When you make the turn, you can't see the church. So, the only real advertisement that we have that is safe for someone to make the entrance into that church is if they see the sign. The roads have also gotten busier. Years ago, that was a two-lane road with a 50-mile speed limit. Now with all the amount of traffic that church is going to generate on Sunday, they will have to put in a wide road and/or a decel lane on both sides. So now farther back, you have to see the sign, get into decel lane and make the turn. Well, most people are going to say that the members know where the church is and how to get there. I agree with you for the most part. But when the church has a wedding, a baptism, a funeral then there will be more people from out of town who are very anxious and nervous and also using their GPS to get there. But they still need to see the correct entrance of

where they are going to and whether they are in the right spot.

So, we made a couple exhibits. This exhibit shows the new decel lane and the sign. You have to get into the decel lane, when you make the turn and you have the bike lane. Also, the other thing about this property is the right-of-way that you had to give to the State. I'm sure no one will agree with me, and it might not be in his lifetime, but Route 8 is going to become a four-lane road. So, DelDOT required that there be 50 feet from the travel lane to the edge of the property. This sign is going to be 55 feet from the travel lane as you are going towards the City. So, this sign sits way back because of the easement. We have an easement, a bike lane, and then the start of the property. The size of this sign is needed so you can see it safely and the fact that we are now 55 feet away from the traveling lane. Nowhere really in the City do you have that comparison that I can give you one that makes sense is the Modern Maturity Center. They have the same size sign; that is a message board with a sign on the top and it is about 68-70 square feet with a message center.

Chairman Sheth mentioned that this Sign #1 design is basically the architecture/engineer location, right? Mr. McCallister replied correct.

Chairman Sheth said it is not who makes a sign, but that was the original Sign request. Mr. McCallister replied right.

Chairman Sheth asked what is the speed limit? Mr. McCallister replied that the speed limit is 35, but it starts right there. As you are reading the Sign, they are driving faster and slowing down to 35 miles per hour. There used to be a sign that said Route 8 and then the signs switched out. The church requested the speed be reduced to 35 miles per hour for public safety in that area. The 35 miles per hour was approved. Although the speed limit is 35 miles per hour, people will be driving faster than that. If you notice the City of Dover realizes the problem with speed on that road. When you go down that road a little bit farther, you will see the little smiley faces limit sign telling you the speed limit. Speed has always been an issue on that road, that's why they requested and granted a 35 miles per hour speed limit. He showed the scale of how small the sign looks. Part of the reason it looks smaller is because it is so far off the road, but has to be because of the right-of-way. So, the things that we did not create are the addition to the roads and for that reason we need the size area. Then the height variance is needed because as the pastor said our property, if you look at the pond range, we are approximately anywhere from a foot to 18 inches below grade, by the grading at the level of the street. DelDOT requires that for all billboards and permanent signs, they measure from the roadway. City of Dover measures from the ground. Now a way around that would be, we could take the dirt and build it up, but that's kind of hokey and that's just trying to get around the code. So, we just want to be honest with you, and we need a height variance because of the lay of the land. We need size variance because of the speed of the road and a turn of the road, and a widening the road to get into their safer, ok? And again, it makes sense in a common sense for what is already in the City. The Modern Maturity Center which is very low, but the reason it's so low is because of the trees. Okay, another good example is on McKee Road at the State of Delaware Corrections Department. It's approximately a 6 x 8 Sign; it is under because of the message center, and that's how you determine. It's a little bit lower, but it's also a little bit elevated when you come there. There's a curve, the road, and there's a curve. So, you get a couple more inches that will occur. You can get a comparison of where we

are and what we're competing with and our neighbors. We are not changing the neighborhood at all. There is a billboard, granted it is in the county, but it's a double billboard and it is 576 square feet. The barbershop sign, which is now someone else's business, is in the County, right across the street; it is 12 square feet, and it is in the right-of-way. It's out past it. The reason is because DelDOT does not make you move your sign all the time because they do not want to incur any expenses. DelDOT will widen the road, and they will make your sign legal non-conforming. Sometimes the signs are removed and sometimes they are not when they are located on the State roads and land.

The next example is Dover High School. They have the same issue with the road and pond. We drain from the road on to the property. So hence why do we have the lower level. As we said, this sign is 196 square feet, it's great. There's nothing wrong with it. The Planning Commission did a good job, and the City did a good job designing a really nice sign that fits the property. That's a huge campus. The other thing that we have is, it's a 50-acre campus. We're not talking about putting a sign every couple of hundred feet. This will be the only sign within a huge area. If you have a big wall, you need a big sign so it doesn't look out of place, and it can be seen. That's a huge field. The coming soon Sign is 4 x 8. There's a sign up there right now that's laying down, that was an 8 x 8 that listed all of the project names. Those signs were not overbearing on that space because of the size of the campus and the size of the lot.

Chairman Sheth asked what was the hardship? Mr. McCallister replied the hardship is the turn in the road that we did not make to get people into the parking lot safely and the lay of the land, and the setback that is over 50 feet back.

Chairman Sheth mentioned that the Board members follow the ordinance. I tried to recall, Dawn wasn't here; Mrs. Ann Marie Townshend was the Planning Director. We had a similar issue with the Department of Corrections Sign on McKee Road. Their issue was they had a constant problem for recruitment for people to work at the Correctional Center. They said we have the same problem. But then we suggest that they put up the electronic or lettering sign and "that we will pay X amount if you work" to recruit directly. They said the sign was for how to speed up recruitment for the people. At that time Mr. Senato, do you remember that sign? I'm trying to let new members know it was the same question about the Correctional Center and to get people to pay attention.

Mr. McCallister mentioned that the purpose of that sign was to do recruitment and to get an officer. The purpose of this sign is same as marketing/recruitment to get new members and more people into the congregation. If this sign does the job, he is going to have to hire a police officer every Sunday to help direct traffic. Having more people in church on a Sunday morning would never be a bad thing. And that's the purpose of the sign, the marketing part of it, should speak to more people, but no different than the one that they have Downtown Dover. They use it on a regular basis to let all their members know what's happening. To welcome new members and Bishop, if there's a wedding, etc. they can put it up there. This is a community bulletin board as well.

Chairman Sheth asked what the difference between the old sign versus the new sign?

Mr. McCallister mentioned that he brought you a printout of both signs. The current sign (as requested) was 13 feet tall. The new or proposed sign is only 51 square feet. The height is 112 inches. Now we switched the sign height to 108 inches. Depending on how the City measures the sign at 108; and if we have to take the cap off, we can. But this is designed and again, this is a design base. We have a brick church and a stucco church and we want to make it more visually appealing. And the way to do it is to take the architecture from the building and bring it into the sign out by the road. What we've also added on this, because the church is so far back, we've added a 7-inch letter with the 911 address.

Chairman Sheth said so is its 158? Mr. McCallister said it is 51 square feet. It's 68 inches tall and 108 inches long. The total height of the wall is 112 inches. The total height of the sign is 108 inches. Instead of being 8 feet, which is 96 inches, it is 9 feet which is 108 inches.

Chairman Sheth mentioned when you finish your presentation the Board members may have questions. You are compromising with the Application versus the new one. And number two, Dawn will probably comment on their requirement on how do you change one to the other one before we go for the vote, ok? If we need Dawn and the attorney's guidance, we will ask them.

Chairman Sheth asked the Board members if they were clear of the original application versus whatever the legal change for Application, that only Dawn can explain.

Chairman Sheth asked the Board if they had any questions.

Mr. Swalm mentioned I know you were talking about the reduction of speed and the turn lane.

Mr. McCallister mentioned that the reduction speed is great, but we still can't change the curve in the road. So, if you take the curve in the road, you don't see the Sign as far down the road. If the curve was straight, we would have a better line of sight.

And they can see it sooner to make the turn into the egress. So, the curve in the road is causing this problem.

You are still taking that curve at 40 miles an hour, you have got to make the turn. You turn on the curve, and then the sign shows up, and then you get ready to decel. One of the problems with Exceptional Practical Difficulty or what we need to create is the actual road itself. The speed limit being reduced helps us. It's still coming from 45 to 35.

Mr. Swalm said this might be more of a question for the Board members. But Dover Christian Church, from my understanding, their Sign is about 32 square feet and 7 feet high.

Mr. McCallister asked which one? Mr. Swalm said Dover Christian Church Sign which is down the street.

Mr. McCallister said that Dover Christian Church Sign is exactly 32 square feet. The problem is with their Sign is that they are a little closer to the road. You cannot see their Sign because of all the trees. If you drive that road, you can miss that sign totally and you can miss it before the

trees. But right now, with the trees growing up, we were going to give you an example of that sign, but the trees are coming in. He also mentioned the landscaping. The landscape of this church will be well taken care of.

Mr. Swalm asked about the driving distance and the readability of being able to size it at what distance you provided and the sources. Mr. McCallister mentioned he had additional information that he could provide to the Board members if needed and can hit some of the highlights if you like. The problem is this thing is so big (referring to the reference document), we would be here for half a day. And I mean, I can show you charts, drafts on height, but by the time I put them all on the exhibits I could be here for about 2 hours. It is a 12-inch letter that can be read as newsprint at 1200 feet. A 9-inch letter, you are looking at 900 feet. Our City of Dover Code is 12-inch letters on a building minimally so that 911 can find it. The minimum on an address up by the road is 6 inches. That's our Code so that you get an understanding of what the distance and the size is. That's just a general background for the industry that everybody knows. It was done by a Penn State company. It's published in one of our catalogs, but I'll be glad to get you a copy of that to prove what we have. For the safety and readability of the sign really, we need to have a minimum of 10-to-12-inch lettering.

Chairman Sheth mentioned that Mr. Swalm was happy with the answer.

Mr. Senato asked that on one sign you are asking for an increase of 23 square feet if I am doing that mathematically right. Mr. McCallister said it is larger than that because he thinks the Code is 16 or 17 square feet. He asked Mrs. Melson-Williams what the Code was. He said that it was for a church. There is a section in the Ordinance that mentions a church and a school. Believe it or not they get penalized because they also allow a bulletin board. Staff Recommendation was 32 square feet, and we are asking for 51 square feet. We had reduced our request to 51 square feet. It would be a variance if my math is right of 19 square feet.

Mr. Senato mentioned that he was under the impression that the argument from you is to me the main factor without the speed is because of where it is. So, because of the speed of the road from the 45 to 35, you're asking for a larger sign. If hypothetically, let's say the sign was approved or not approved, we don't know. The detriment in this is speeding and you worried about nobody seeing the sign.

Mr. Swalm mentioned he keeps referring to sign requirements and the campus and asked if they currently have more than three buildings on the actual location? Bishop Thomas responded, just one. Mr. Swalm continued just from where I've read, I believe you need to have three different buildings to categorize it as a campus; or the sign requirements that wouldn't apply. Bishop Thomas responded, correct. Mr. Swalm continued, my concern with that is like I get it right here and I get all that; my dad was a pastor. And so if the variance for bigger sign is granted based on it being a campus and then you don't go ahead and put two other buildings on it then that would just remain. Yeah, can you get my question on that one? Bishop Thomas replied yes, the Master Plan for this is to have two additional buildings. This is just the first building in the three-phase plan. So, there will be three buildings on this site.

Mr. Swalm asked, is that acceptable or maybe they can apply for a larger sign regarding the

campus requirements later once they have the three buildings? Mr. Sheth mentioned that they will talk to the Planning Commission for additional sign(s) and/or Codes. Mrs. Melson-Williams can also explain it to them. The Board problem is today, right now. It is a good question for the future for them.

Mrs. Melson-Williams so right now the property is being developed with one building, that's what the Site Development Plan indicates. For them to develop new additional buildings on that Site, they would be subject to a Site Plan Review process with the Planning Commission. At which time their campus consists of three buildings, then they could go through a process for a Unified Comprehensive Sign Plan. It is a specific application process to the Planning Commission if you meet the qualifying parameters. The campus of the Dover High School met those parameters. They went through that review process. It basically focuses on an overall concept for signage for the entire campus, which may include increases in size and increases in sign numbers. But we included that in the Report just so that you're aware that there are other processes here at the City to deal with signage on campuses especially when they referenced the Dover High Sign. The Dover High Sign did not go through a variance process. It went through a Unified Comprehensive Sign Plan process. Mr. Swalm thanked Mrs. Melson-Williams for the information.

Chairman Sheth noted in his 33 years and working with our law office, it's about needing knowledge including data. We advise them not to come or you can come. But look at and ask your advisors and then go through just like Dawn explained. In this City, he will go to Dawn and ask her if she can explain and help. It's the same thing we are telling you; then you know a lot before the City spends time on all these things. But that saves a lot of headaches. So, Mr. Thomas, you know, in the future that knowledge can save a lot of time.

Chairman Sheth asked the Board if they had any questions. There was none.

Chairman Sheth opened the public hearing.

Chairman Sheth asked if there was any member who had a conflict of interest and there was none.

Chairman Sheth asked if there was anyone who would like to speak in favor of the Variance Application.

Mr. Julius Linell Hicks of 198 Commerce Way, Dover Delaware was sworn in by City Solicitor Griffith. I come before you this morning asking for you to take consideration the presentation that was given this morning. I was born and raised here in Dover, Delaware, am a member of Calvary Baptist Church, Chairman of the Trustee Board, and I work for the Capital School District. As I travel the road daily, there is a need for that Sign. We are a beacon of light for Dover, Delaware. Just hearing the excitement of this church project finally getting done is a blessing within itself. Seeing this near to Dover High School and when it comes to our young adults at the high school, they see that building being built and they're looking for refuge. And I see us being that refuge for them in the future. With after-school programs for the young adults to mentor and to keep them on the path that we want them to be and to be productive people in

this community. We know the violence that's going on. We know the other issues we're having and we just want to be that beacon of light when you come from the western corridor of Dover, Delaware and you see Calvary Baptist Church that represents Dover, Delaware. Thank you for your time.

Dr. Charles Fletcher was sworn in by City Solicitor Griffith.

My name is Dr. Charles Fletcher. I'm the project manager for Calvary Baptist Church. I've been on this project for quite a while. As a retired member and a former Associate Provost at Delaware State University and a retired professor of College of Business, it's always a pleasure to see the work of the City operating and the processes going on behind. This is truly a great opportunity for the City of Dover. We noted the expansion zone of the City, but we moved from Kent County and got adopted into the City boundaries; that was the very purpose of that. Even with the services this particular construction provided for the extension, such as the sewer and line along the highway. That was because of Calvary Baptist Church and others working together. I am very happy that we are at a point that we need to help the game as the spoken. There are different variances for schools and churches in the City. The construction really has an amazing look.

We are doing something that those other buildings cannot possibly do because we're dealing with people's souls and their hearts. Clearly in the City and the young people in our City could stand to benefit. Finally, there is a series of apartment buildings being built in the surrounding area and they will be coming to Calvary. Thank you.

Chairman Sheth asked if there was anyone who would like to speak against the Variance Application. There was none.

Chairman Sheth closed the public hearing after seeing no one else wishing to speak.

Mrs. Melson-Williams stated that all those individuals that have joined us virtually today are either Staff or Staff participants here with the City. The City Clerk's Office joined us online. Other than that, it's staff here in the room; so, there are no members of the public that have joined us virtually today to participate in the meeting. There was no written correspondence received in regard to this Application. So, you are ready to formally deliberate. I believe what the Applicant has presented to you is an alternative. That would be an alternative of a Sign that would be 51 square feet in size for the sign area and at a height of, for the sign itself of 108 inches. It is a total of 112 inches in height when you measure to the cap of the kind of column there. If they're putting that forth as an alternative from their initial submission, I believe you're within your bounds to consider that. It is something where the variances are less than what the initial request was in height and also in Sign Area.

The one thing, that's not clear on the submission would be what the size of the static area versus the Electronic Message Center. The *Zoning Ordinance* has a limitation that the Electronic Message Center can be only the maximum of 70 % of the sign face. That's the only thing that I see that's not clear in their addition and in their submission here. So, you may want to seek that clarification from the Applicant. But you certainly I think could consider this potential

alternative for the variance: height to allow for a sign that is 108 and we'll call it just 112 inches in height for the overall structure and a sign area of 51 square feet made up of a static area where it says Calvary Baptist Church with a changeable copy sign portion, (that's that electronic message center). Once you clarified what that percentage is between those two. Hopefully, the Applicant can provide that information with your Option 2 sign that you are putting forth.

Mr. McCallister stated that in Option 2, the top section is only 18 inches. Mrs. Melson-Williams is correct, we won't be at 30-70. This is only 26%. If we go to 30%, we need to raise this height by 6 inches. We purposely did not raise it to try to keep the height down. So, we're losing the ratio, but we're trying to keep the height down. I think the height is a bigger issue for the City as far as setting a precedent. We do not meet it. We do not. We are not; this is only 18 inches. This is 24% versus 76%. This one (Option 3) does meet the ordinance. The one on the right meets the 70-30 proportion because we have got a 50-inch by 50-inch cabinet here and that's an 11-foot Sign Message Center. So, we do not meet the 70-30 here (Option 2). We're very close. We are at 24-76, but I can meet it, but I would have to make the Sign bigger. And that increases the height and our area, which is two things that we didn't want to do.

Mr. Coburn questioned if instead of increasing the height can you extend that part of the sign down? Mr. McCallister problem with that, is this right here (pointing to the base). Because this is 36-inches and it has a cap. It's 3 feet off the ground and it's hardly level. We are losing a foot. So now the Sign is only 2 feet off the ground, if that. If you're sitting in the car, now you're looking down at the Sign. It's not in your eyesight. We looked at that too. We're really worried about the visibility of the Sign while you are in the car. The other thing is when you are driving a car, who is in front of you? The speed limit Sign is 7 feet to the bottom; and so if that car that is 5 feet ahead of you, you can still see the Stop Sign and Speeding Sign. So, it is an option that we could lower it.

Mr. Coburn mentioned that he was not talking about the overall Sign itself, just the white part that says Calvary Baptist Church extend that down to 6 inches and take away from the reader board 6 inches.

Mr. McCallister said the message center is a standard 4 foot 2 inches, and if we don't, we have to go to a 3 foot. So, it's not something you can just take a couple of inches off. They come from the manufacturer in a certain size; and it's 50 inches. There's no way to chop off a couple of inches.

Mr. Coburn said okay, thank you for the clarification.

Chairman Sheth asked Mrs. Melson-Williams what the other requests were.

Mrs. Melson-Williams replied they made their original request. They have brought basically two alternatives to you, both of which still require variances. You could certainly consider one or the other. In the case of the 51 square foot Sign, you would also have to include authorization for the percentage change in the electronic message center portion, because as noted that goes to 24% static and 76% message. I was not real clear on Option 3 and what all the details of that are. It is a shorter sign, but it then becomes larger in Sign area as an alternative. You certainly have

options, I think at this point, and you could determine that you would authorize it. The easiest way is probably to determine whether you could authorize either Sign Option 2 or Sign Option 3 and then enumerate the variances needed to allow those Signs. So, with Option 2, that would be allowing the increase in height, the increase in sign area, and then the alternative percentage difference on the message area versus the static. If you went with Option 3, it is a variance for increase in height, increase in Sign area, and the percentage works on that one if I understand correctly from the Applicant.

Chairman Sheth asked the Board members to remember one thing. This is the main sign and the electronic sign and that it usually does not give over 7-feet. We should be very clear on what we are voting for, and that's why we're developing the understanding, and what are the variances we're giving them. Mrs. Melson-Williams suggested we have to review it. And still, they are compromising. We have to vote in such a way, so Applicant gets what they want, and we are not violating much of the Ordinance that it establishes a precedent, because in the future we have to use the same thing. So, Applicant is trying everything; what can we want. Only understanding we can get is what Mrs. Melson-Williams explained to us; what they can do and what they cannot.

Chairman Sheth asked the Applicant to in the short-term language; can you explain it as to what Mrs. Melson-Williams said. Can you live with it? And then I can explain to the Board members and help them understand what they are voting for.

Mr. McCallister said that Mrs. Melson-Williams is 100% correct. This one (Option 3) again complies with the City at 70% message center, 30% Sign. So, the message center does not become the whole Sign. This is a unique situation because of the height and the area. The other option (Option 2) is more height and less area and the ratio is off a little bit. Next (Option 3), the ratio is correct; it's closer on the height, but it's more square footage. It had to be more square footage to get to our ratio. So, could we live with both of them? Yes. Both of them will work. So whichever one. Now this (Option 3), this will get more square footage. This one (Option 2) would get less square footage. One will get a higher change in our ratio.

Chairman Sheth asked about the electronic sign and can you live with both of them.

Mr. McCallister said the electronic sign has the right percentage on this one here (Option 3). You asked if we can we live with both of them? Yes. We could live with both of them. The congregation and Pastor would like this one, Option 2.

Chairman Sheth asked do you agree with what he said?

Bishop Thomas said yes, I do agree with what Mr. McCallister said.

Chairman Sheth, thank you very much. Okay, are you clear? And so that's where you're gonna go with Option 2 as authorized by Bishop Thomas.

Mr. Senato notes that he has just been pushed a lot of this information that was brought up by the attorney. But it would be a lot clearer with all the figures and ups and downs with signs and all

that stuff (to have before). I always like to be prepared and that's important to me.
Chairman Sheth asked the Board if they had any questions. There was none.

Chairman Sheth closed the public hearing after seeing no one else wishing to speak.

Chairman Sheth noted the Board will consider the decision for Application V-25-04. Any change or return requirement required will be done by Dawn, noting what the change was that took place. So, what you understand, and Dawn says. I think that number two (Option 2 Sign) middle one, that's what you are voting for, okay.

Mrs. Melson-Williams stated that Staff would clarify that, if there is a motion that is made in regard to accepting Sign number 2, that that would include granting a variance for sign height, granting a variance for sign area, and granting a variance related to the percentage of the electronic message board in the Sign area. There would be three technical variances; and we can definitely identify what those numbers are. But if you reference the specific sign, we can certainly calculate those officially.

Chairman Sheth can I ask a question? Can we make one motion? Within the motion, we include all three variances, if you agree.

Mrs. Melson-Williams stated that the motion you make could certainly include all three of them (variances) as part of one motion. In this case, it may be simpler to reference the sign by number and three variances in one motion.

Chairman Sheth said whatever you understand before that, I'm going to ask that we can do one motion and what are those three variances are because in case our Board members not clear why we do the motion.

City Solicitor Mr. Griffith mentioned that we can make one motion. One thing he wanted to do for sure is make sure that the Exhibit, the sign that you are voting for, is included in the materials before the Board. So, I believe the Exhibits that have been attached to the Application through Exhibit G, is that correct? And I am wondering if we could move to have a particular sign image that's under consideration included as Exhibit H. So, we all know what's attached to the record and what's being voted on. And so, the answer to your question, sooner we can move that in as Exhibit H, so we all know it's included as part of the record. That's what the board will be voting on; it is to approve what's been attached as Exhibit H.

Mr. Senato said I will make a motion, and the wording has to be put in and I will rely on the legal advisor to do it because it is complicated.

Chairman Sheth said that's what I'm saying. You just say "I make a motion that"

City Solicitor Mr. Griffith stated that it would be a motion to grant three Area Variances: one to allow a height of 112 inches, one to allow a square footage of 51 square feet, and one to allow a ratio of 76% to 24% for the Electronic Signage portion versus the static portion. (Option 2)

Chairman Sheth said, you know, before we do, go ahead and say motion. If you note something wrong, we'll correct it.

Mr. Senato moved to deny the Request of Application V-25-04. The reason for denial is that any of these signs, in my opinion, does not meet the definition of a monument sign as it is taller than it is wide. The proposed base, now you have three different figures, has an increase in an overall length originally 3 feet but I think it's more now. And the Zoning Ordinance that does not allow that square footage and height found in Zoning Ordinance Article 5 Section 4.7. Table one and Table two. I don't believe the Applicant has provided clear evidence for the safety of motorist but that should be immaterial. That's what my motion is. The motion was seconded by Mr. Swalm.

Mrs. Melson-Williams stated to make sure that everyone is clear, this is a motion to deny the original request by the Applicants and then Mr. Senato cited the reasons there. So, this is a Roll Call on the motion to deny. So, a "yes" vote is a yes to deny. As part of your vote, please identify your reasons. The Chair has called for a roll call vote; so, if you will start with the motion maker.

Roll Call Vote

Mr. Senato – yes to deny, reason stated in the motion.

Mr. Swalm – yes to deny, no hardship has been provided.

Mr. Coburn – yes to deny, in accordance with the (Zoning Ordinance Article 9 Section 2.11 Area Variance item (b).

Chairman Sheth – no to deny, because the Applicant tried every possible way through it and they compromised. We are providing no help in the committee by speaking a language without proper interpretations by the ordinance, nor the language. I hope it's not because of a not clear understand what the sign is about that the Applicant is trying. That's why I'm voting no for the motion.

Three yes votes, one no vote, and motion to deny is carried.

Mrs. Melson-Williams mentioned that the formal Notice of the Decision will be issued in writing. Chairman Sheth I don't know if there's any appetite or if you need to consult legal, if there's any additional motion? I don't know if there is the ability to consider their alternatives. Chairman Sheth noted that would be if anybody else would make a motion, right? Mrs. Melson-Williams noted that would be the case, yes.

Mrs. Melson-Williams mentioned that the motion was to deny the request; So, that was the original request. Staff just want to be clear if there was any appetite for the compromise that they offered and an action upon that compromise or if you're just leaving it as their initial request was denied.

Chairman Sheth said no. I'm just trying to understand the proper motion.

Mrs. Melson-Williams mentioned I think the item is somewhat still here and you could or there could be another motion offered. Your legal council could certainly weigh in on that.

City Solicitor Griffith stated sure. So, there were two alternatives. The applicant expressed a

preference, but not the exclusive option. So, the Board is within its discretion to consider the Second Option, which is the 8-foot tall 55 square foot Option (Option 3) that is in compliance with the ratio. So, I think we want to attach that as Exhibit I and then it is up to the Board to determine whether or not the Board wants to consider and hold a vote on this alternative.

Chairman Sheth said that he would like to have additional discussion.

City Solicitor Griffith said you would need to make a motion to consider and have it seconded.

Chairman Sheth made a motion, and it was seconded. Mrs. Melson-Williams asked Chairman Sheth to clarify if he was making a motion to consider potential alternatives as presented by the Applicant. Chairman Sheth replied yes. The motion was seconded by Mr. Senato. All were in favor.

City Solicitor Griffith stated that there would need to be a motion to either approve or deny the second alternative (Sign Option 3-Exhibit I) that was offered by the Applicant.

Chairman Sheth said he would like to discuss and then come back for the motion. So, let's please go into the Executive Session.

Chairman Sheth made a motion for the Board to adjourn into Executive Session. The motion was seconded by Mr. Senato. All were in favor.

(Executive Session held)

Chairman Sheth made a motion to adjourn the Executive Session and returned back to the regular meeting. The motion was seconded by Mr. Swalm. All were in favor.

Regular Meeting resumes:

City Solicitor Griffith mentioned that we would like to thank you for your patience. I'm sorry for the delay. We wanted to first clarify where we stand and what's happened so far and what we are about to do because there's certainly some confusion on our side and there's probably some on yours as well. You heard a vote on a motion to deny the Application and based on the vote the Application was denied. The confusion was which Application? Was it the original one that was submitted before we came in today? Was it Alternative number one (Option 2) that was presented and attached as Exhibit H or was it Alternative number two (Option 3) which was attached as Exhibit I. So, there was certain confusion on our side as well and we resolved it. I wanted to clarify on the Record what was voted on and denied was the original Application that was trending before we came in today. So, neither Alternative has been voted on to this point. But there were deliberations on both alternatives while we were in an Executive Session. And so, based on that, I believe there is going to be a motion made with respect to the second alternative. For purposes of clarification, the second Alternative which has been identified as Exhibit I (Option 3) is the Alternative that is 8 feet high, 55 square feet total and does not require a variance for the 70-30 ratio of electronic signage versus static. So, it would be two variances instead of three variances. So, unless anybody has any questions the Board can proceed with a

motion on that Alternative.

Mr. Coburn made a motion to approve Exhibit I (Sign # 2); also referred to as Option 3 Alternative because it meets the Exceptional Practical Difficulties test and only two variances are required: one for the height and one for the square footage. The motion was seconded by Mr. Swalm.

Chairman Sheth asked if there were any additional questions. There were none.

Mrs. Melson-Williams stated that the dimensions of this Sign, so there's not confusion, are the following. It would have an overall height of 96 inches. The sign area is 55 square feet. On the Applicant's presentation, it was Sign number 3. It was entered into our Record here in the meeting as Exhibit I.

Chairman Sheth asked if everybody agreed with what Mrs. Melson-Williams stated. So, you know what you are voting for. Now Kristen, can you do a Roll Call vote.

Roll Call Vote

Mr. Coburn – yes to approve for the reason I stated in the motion.

Mr. Swalm – yes to approve for the same reason stated in the motion.

Mr. Senato - yes to approve for the reason I stated in the motion.

Chairman Sheth - yes to approve with the understanding that we are approving Exhibit I with a sign area of 55 square feet with 96 inches height and whatever is suggested for the 2285 Forrest Avenue on this picture (showing Exhibit I); so that nobody has any difference like that. Everybody should understand.

Chairman Sheth asked for the vote clarification. Mrs. Mullaney stated 4 yes and 0 no votes. Motion carries.

Chairman Sheth thanked everyone for their cooperation and attendance at today's meeting.

Chairman Sheth made a motion to adjourn the meeting. It was seconded by Mr. Coburn and unanimously carried 4-0.

The meeting was adjourned at 11:00 A.M.

Sincerely,
Maretta Savage-Purnell/km
Secretary/Acting Secretary



Resolution

Whereas, Mr. Kishor “KC” Sheth became an appointed member of the City of Dover Board of Adjustment on July 27, 1992 and has served with diligence and distinction in this capacity to ensure that the spirit of the City’s Zoning Ordinance is observed and substantial justice is done; and,

Whereas, Mr. Kishor “KC” Sheth has played a role in ensuring fundamental fairness and careful forethought in the interpretation of the Zoning Ordinance to ensure undue hardship and exceptional practical difficulties are mitigated by the granting of variances through his service on the Board of Adjustment; and,

Whereas, Mr. Kishor “KC” Sheth in reviewing and deliberating on variance applications considered a property’s zoning classification, character of the area, effects on neighboring properties and uses, and the creation of exceptional practical difficulties for property owners seeking to make normal improvements to their properties; and,

Whereas, Mr. Kishor “KC” Sheth served as the Chairman of the Board of Adjustment leading each meeting’s proceedings in the consideration of applications and sharing his knowledge of previous applications acted upon; and,

Whereas, Mr. Kishor “KC” Sheth completed his term of service on the City of Dover Board of Adjustment in August 2025.

Now Therefore Be It Resolved That, the City of Dover Board of Adjustment does hereby express its sincere appreciation to Mr. Kishor “KC” Sheth for his faithful and diligent service to the Citizens of the City of Dover as an active member of the City of Dover Board of Adjustment and extends its best wishes to Mr. Kishor “KC” Sheth in future endeavors.

*Richard Senato
Board of Adjustment Vice-Chair*

*Sharon Duca
Assistant City Manager*



City of Dover
Board of Adjustment
October 15, 2025
V-25-05

Title: Bayhealth Medical Center, Inc. Variance Request

Location: 640 South State Street (and 625 South Governors Avenue)
East of S. Governors Ave., West of S. State St.

Applicant/Owner: Bayhealth Medical Center Inc.
620 South State Street
Dover, Delaware 19901

Tax Parcel: ED-05-077.13-01-52.00-000

Application Date: September 12, 2025

Present Zoning: IO (Institutional Office Zone)
SWPOZ (Source Water Protection Overlay Zone) – Tier 3 (portion of site)

Present Use: Hospital/Medical Campus

Reviewed By: Savannah Edwards, AICP Planning Consultant (Rossi Group)
Dawn Melson-Williams, AICP, Principal Planner

Variance Type: Area Variance

Variance Requested: Request has been made for two variances from the requirements of *Zoning Ordinance*, Article 4 §4.15 to allow for an increase in height from 150 feet to 175 feet and for a reduction of the minimum 10-foot front yard setback to allow an eight-foot encroachment into the front yard on South Street.

Note: This Review Report was initially prepared by staff of the Rossi Group (under a Planning Services contract with the City of Dover). The Report was completed with additional review and editing by the City’s Planning Office.

Project Description:

The Property is located at 640 South State Street for the hospital facility known as the Bayhealth Medical Center – Kent Campus. A Request has been made for two Variances from the requirements of *Zoning Ordinance*, Article 4 §4.15 as associated with a proposed 10-story Hospital Bed Tower Building Addition.

- Variance Request #1 seeks to increase the allowable height from 150 feet to 175 feet for a new 10-story Hospital Bed Tower.
- Variance Request #2 seeks a reduction of the minimum 10-foot front yard setback to allow for building encroachment of the Bed Tower Elevators and Stairs where adjacent to South Street.

The property is zoned IO (Institutional and Office Zone) and partially subject to the SWPOZ (Source Water Protection Overlay Zone). The owner of record is Bayhealth Medical Center, Inc. Property Addresses: 640 South State Street and 625 South Governors Avenue, Dover DE. The Tax Parcel ID is ED-05-077.13-01-52.00-000.

Adjacent Land Uses and Zoning

The adjacent properties are zoned IO (Institutional and Office Zone) and are part of the Bayhealth campus. The property at the southeast corner of South Street and South State Street is zoned RGO and is also part of the Bayhealth campus; it is currently subject to a separate Rezoning Application Z-25-01 that requests it be rezoned to IO and subject to SWPOZ. Holy Cross Church and School, zoned IO, is located across South State Street; and medical offices, zoned IO and other commercial businesses in the C-3 (Central Commercial Zone), are located across South Governors Avenue. There are also residential uses across South State Street to the northeast that are zoned R-8 (One Family Residence Zone) that are part of the Elm Terrace community.

A Map Exhibit (Exhibit B) prepared by Staff is attached to this Report. It shows the subject property's location and the zoning classifications. Also, Exhibits D and E are Site Plans showing the subject property and its surroundings.

Previous Applications: Site Development Master Plan and Associated Administrative Plans

In June 2006, the Planning Commission approved a Site Development Master Plan (S-06-14) for the Bayhealth Kent Campus. Part of this Master Plan included a three-story podium building and a seven-story bed tower to be constructed above the podium building, culminating in a total of ten stories. In subsequent years, Administrative Site Plans were approved that allowed for the construction of components of the Site Development Master Plan improvements of the podium building, the parking garage, and other buildings and building additions. The Site Development Master Plan is now expired, as the approval for Site Development Master Plans is valid for five years. Future development activities will require appropriate plans and permit reviews.

Code Citations

IO (Institutional and Office Zone)

The subject project area is zoned IO (Institutional and Office Zone). *Zoning Ordinance*, Article 3 §10 lists the permitted uses, conditional uses, and other provisions of the IO zone. Institutional uses such as a hospital are allowable use in this zone.

The following are definitions in the *Zoning Ordinance* related to these variance requests:

Height: The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat and mansard roofs and to the mean height between [the] eave and ridge for other types of roofs.

Setback: The distance between the street line and the setback line.

Setback line: A line extending between the two side lot lines of a lot or a parcel of land, which is parallel to, and a stated distance from, a street line.

Street line: The dividing line between a lot and a street.

Yard, front: An unoccupied ground area fully open to the sky between the street line and the setback line. The minimum width of the front yard is equal to the setback.

The IO (Institutional and Office Zone) zoning district of the City of Dover’s *Zoning Ordinance* (Article 4§ 4.15) allows for a maximum building height of 10 stories and 150 feet. It also requires a minimum front yard of 10 feet. See the following summary chart of the bulk standards.

	IO
Minimum required:	
Lot area	10,000 sq. ft.
Lot width (ft.)	100
Lot depth (ft.)	100
Front yard (ft.)	10
Side yard (ft.)	10
Rear yard (ft.)	15
Side or rear yards which adjoin a residence zone (ft.)	30
Off-street parking	
Per 300 sq. ft. floor area or	1
Per employee (whichever is greater)	
Maximum permitted:	
Building height	
Stories	10
Feet	150
Floor area ratio	6.0
Lot coverage	85%

The IO zoning district is considered a nonresidential zone as defined in the *Zoning Ordinance* and as such has additional parameters related to height. See the following supplementary regulations excerpt from *Zoning Ordinance*, Article 5 §3.

Article 5

Section 3. - Supplementary regulations applying to nonresidential buildings.

3.1 Supplementary height regulations in nonresidential zones.

3.11 Except for one- or two-family dwellings, where a lot has frontage on two or more streets or other public ways, the height limitation shall apply only as measured from the curb level along the street or way with a higher elevation above sea level.

3.12 When penthouses, bulkheads, roof structures housing stairways, elevators, skylights, cooling towers, air-conditioning units, or other equipment, etc., are over 12 feet high and cover more than 20 percent of the roof area, measurements must be taken to the top of such elements.

3.13 An ornamental or decorative part of a building which is not used as a living or storage area, such as steeples, spires and the like may not be greater in height than the maximum height of the building to which the same is attached.

3.14 All penthouses, bulkheads, roof structures housing stairways, elevators, skylights, cooling towers, air-conditioning units, or other equipment, etc., must be ten feet back of the sidewalls, except that walls of elevators and stair enclosures may be built on the sidewall when required by the plan of the building.

SWPOZ (Source Water Protection Overlay Zone)

The subject property is partially located within the SWPOZ (Tier 3: Excellent Recharge Area) found in Article 3 Section 29.7 of the *Zoning Ordinance*. The SWPOZ does include a prohibition of certain uses where the activity may be harmful to water resources; see *Zoning Ordinance*, Article 3 §29.51. However, this subject property is within the Downtown Redevelopment Target Area which is exempted from the SWPOZ requirements and restrictions as per *Zoning Ordinance*, Article 3 §29.79 related to impervious surface coverage. The SWPOZ does not place limitations on height or front yard setbacks.

Applicant's Proposed Project and Variances Requested

The Applicant has submitted Site Plans (Exhibits D and E as presented in two plan sheet sizes for readability) and an Architectural Graphics Package (Exhibit F of Sheet 01-05). Site Plan Sheet 1 shows the overall subject property at 640 South State Street and annotates the location of the proposed Bed-Tower Overbuild consisting of floors 5 through 10 with its associated elevator and stair tower portion on its proposed encroachment into the front yard setback adjacent to South Street. Sheet 2 is a close-up of the Bed-Tower Overbuild for a more detailed view. The Architectural Graphics Package details the proposed building expansion in a site plan; a series of building elevations of the existing building with the proposed addition of the Bed-Tower topped with the enclosed mechanical penthouse and the Elevator and Stair Tower Expansion; 3-D views; and sections of the building including example rooms with mechanical and structural areas depicting variations in floor-to-floor height (15 feet to 18 feet).

The applicant is requesting two variances from the requirements of the *Zoning Ordinance*, Article 4 §4.15: Variance #1 - Increasing the maximum building height from 150 feet to 175 feet and Variance #2 - Allowing a 400-SF projection eight feet (8) into the Building Restriction Line (front yard setback line). The ten-story tower was approved by the City of Dover in 2006 as part of the campus Site Development Master Plan, and four stories have already been constructed. The proposed expansion is therefore consistent with prior approvals, existing zoning, and long-term planning for the site.

Exceptional Practical Difficulties Tests

Zoning Ordinance, Article 9 §2 dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. Specifically, the Board must determine:

2.1 Variance – The board shall have the authority to authorize variances from provisions of the Zoning Ordinance that are not contrary to public interest where the board determines that a literal interpretation of the Zoning Ordinance would result in undue hardship or exceptional practical difficulties to the applicant. In granting variances, the board shall determine that the spirit of the Zoning Ordinance is observed and substantial justice is done.

2.11 Area Variance. A variance shall be considered an area variance if it relates to bulk standards, signage regulations, and other provisions of the Zoning Ordinance that address lot layout, buffers, and dimensions. In considering a request for an area variance, the board shall evaluate the following criteria and document them in their findings of fact:

- (a) the nature of the zone in which the property lies;
- (b) the character of the immediate vicinity and the contained uses therein;
- (c) whether, if the restriction upon the applicant’s property were removed, such removal would seriously affect neighboring properties and uses; and
- (d) whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is a permitted use under the provisions of the Zoning Ordinance.

Review of Application

As part of the Application, the applicant was asked to summarize how the requested Variance relates to the above criteria. The applicant’s responses are provided in Exhibit C – Written Narrative and are listed below. The Staff assessment of the application in accordance with the required criteria is provided below.

Applicant Responses:

1. The nature of the zone in which the property lies

Applicant Response:

The subject property is located within the Institutional Office (IO) zoning district, which expressly permits hospital use. Bayhealth Kent Campus Hospital has continuously operated on this site since the early 1900s and has served as the primary hospital and healthcare institution for the region.

Since the original hospital building opened in 1927, the campus has experienced significant growth to meet the needs of a growing community. This growth resulted in the acquisition of numerous surrounding properties and the development of a multi-building, horizontally oriented facility. The current campus layout includes four separate elevator banks serving multiple patient bed towers and long, winding corridors that are difficult for patients, particularly the elderly, to navigate.

The proposed project will construct the remaining six stories of a previously approved ten-story bed tower, consolidating patient care vertically. This design will simplify wayfinding, improve operational efficiency, and reduce internal travel distances for patients, staff, and visitors.

The project will also eliminate outdated dual-occupancy patient rooms and replace them with single-patient rooms, consistent with current privacy standards, best practices in patient care, and applicable regulations. To meet community demand, approximately 100 additional beds will be added, helping to alleviate emergency department backups caused by insufficient inpatient capacity.

The ten-story tower was approved by the City of Dover in 2006, and four stories have already been constructed. The proposed expansion is therefore consistent with prior approvals, existing zoning, and long-term planning for the site. The Central Utility Building (CUB) located to the

north will continue to support the tower by handling materials and supply deliveries via the existing bridge over South Street.

Staff Response:

The property is zoned IO (Institutional and Office Zone), which allows for the hospital and medical offices and the related parking facilities. The IO zone allows for a ten-story building, but it limits building height to 150 feet. The applicant is looking to build ten stories at a total of 175 feet. The request for a reduced front yard setback is along South Street, which cuts through the Bayhealth campus as both properties are zoned IO. A bridge connecting the Central Utility Building to the main hospital building already exists over South Street. The reduction of the front yard is in the vicinity of this bridge is to accommodate the building addition for the Bed Tower Elevator and Stair Tower.

2. The character of the immediate vicinity and the contained uses therein.

Applicant's Response:

The immediate vicinity of the subject property is characterized by a mix of institutional, commercial, and medical uses. The majority of surrounding parcels are owned by Bayhealth and directly support hospital operations.

- **North:** All property to the north is Bayhealth-owned, IO-zoned, and used for parking and support functions, including the CUB. Two Bayhealth office buildings are also located in this area.
- **East:** Across South State Street, two IO-zoned properties exist. One is Bayhealth-owned and used for staff parking, a surgery center, and a daycare facility. The other is Holy Cross Church and School, which has coexisted with Bayhealth for decades in a mutually supportive relationship.
- **South:** Across Hope Street are three IO-zoned parcels: a Bayhealth parking facility serving a one-story outpatient building, a doctor's office, and a Bayhealth-owned residence for relocating staff.
- **West:** Across South Governors Avenue are five C3-zoned commercial properties. Two are occupied by Bayhealth offices, while the remainder house long-standing commercial businesses compatible with hospital operations.

Overall, the immediate vicinity is a well-established medical and commercial corridor that has evolved with Bayhealth's growth and remains consistent with the intent of the IO zoning district.

Staff Response:

The subject property is the main hospital block which is bounded by streets and surrounded by associated institutional facilities of the hospital including surface parking lots, medical office and service buildings, and a separate institutional use of a place of worship with school. The applicant's narrative and plans submission describes the nearby uses in greater detail. The nearby residential neighborhoods are over a block away from the location of the proposed Bed Tower Overbuild building addition location. The requested variances are consistent with the character of the immediate vicinity and the uses within this area. The proposed variances are fully surrounded by properties that are part of the Bayhealth campus.

3. Whether, if the restriction upon the applicant’s property were removed, such removal would seriously affect neighboring properties and uses.

Applicant Response:

Granting the requested variances (1) increasing the maximum height from 150 to 175 feet and (2) allowing a 400-square-foot projection into the Building Restriction Line (BRL) will not adversely impact neighboring properties.

The tower’s ten-story height was previously approved by the City of Dover in 2006, and four stories have already been completed. Surrounding property owners have been aware of this development for years. Nearly all adjacent properties are Bayhealth-owned and used for hospital operations. The few remaining properties are IO- or C3-zoned commercial uses that have coexisted compatibly with the hospital for decades.

The tower is centrally located within the Bayhealth campus, with the nearest off-site building more than 320 feet away. The additional height is primarily for mechanical and HVAC systems necessary for a 24-hour hospital operation, requiring redundancy that exceeds the code’s 20% rooftop mechanical equipment allowance.

The requested BRL projection will accommodate a second stairwell and elevator bank required by life-safety codes. This will improve emergency egress by reducing travel distances, facilitating faster patient evacuation, and allowing vertical transport of materials arriving via the South Street bridge without disrupting patient areas. Because the bridge already projects into the BRL, the visual impact of the new construction will be minimal.

Staff Response:

The requested increase in maximum height for the building to 175 feet and to allow eight-foot encroachment (approximately 400 SF in area) into the front yard on South Street would not seriously affect the neighboring uses and properties. As previously stated, the IO zone allows ten stories. The variance request would increase the height from 150 feet to 175 feet to accommodate the increase floor-to-floor height necessary for hospital rooms/spaces with needed mechanical and building structure areas and the roof mounted mechanical systems. While it will be the tallest building in larger southern Downtown Dover area, there are topographic changes in the land in the area that also minimize the overall height appearance. The likely placement of building elevation detailing and window systems will likely emphasis the ten floors (stories) and not the actual measurement in feet of the building height. The encroachment into the front yard on South Street is in the area where a bridge connecting the Central Utility Building to the main hospital already crosses South Street through the front yard. The Elevator & Stair Tower element is an addition to the existing building in a location related to interior function and life safety egress requirements. These variances are in the middle of the Bayhealth campus and are completely surrounded by Bayhealth property. They will not seriously affect the neighboring properties or uses.

4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make

normal improvements in the character of that use of the property that is a permitted use under the provisions of the *Zoning Ordinance*.

Applicant Response:

Strict enforcement of the current height and BRL restrictions would result in significant hardship and exceptional practical difficulty for Bayhealth in carrying out permitted hospital uses.

Although the project complies with the ten-story limit, hospitals require greater floor-to-ceiling heights (15–18 feet) than typical commercial buildings to accommodate heavy medical equipment, redundant HVAC systems, medical gas lines, data infrastructure, and other life-safety features. In addition, hospital equipment such as MRI machines, robotics and other apparatuses are extremely heavy requiring a larger structure that needs extra clear space. Gases, computers, monitors, etc. are also needed on hospital rooms, all of which are run in the spaces below and above the rooms requiring more height than typical buildings. Without the variance, entire floors and beds would need to be eliminated, preventing Bayhealth from meeting community demand and defeating the project's purpose.

The vertical expansion is also essential to address current wayfinding challenges caused by the existing horizontal layout, which includes four widely separated elevator banks. The new tower will provide direct elevator access from the main entrance, simplifying navigation for patients and visitors.

Finally, the requested BRL projection is critical for life safety. The additional stairwell and elevator cannot reasonably be located elsewhere given that the first four stories of the tower are already in place. These features will enhance emergency evacuation and operational efficiency, thereby serving the best interests of patients, staff, and the broader community.

Staff Response:

If the restriction is not removed, it would create an exceptional practical difficulty for the hospital in its efforts to make normal improvements to the campus. As the applicant has stated, Bayhealth Medical Center (Kent General Hospital) is a regional hospital serving the population of north and central Kent County. The proposed building height complies with the maximum number of stories, but because of the specific needs of hospitals, the floor to ceiling height is greater than other uses, requiring 15 feet -18 feet of floor-to-ceiling area. The location of roof mounted mechanical systems are part of this increased height scenario.

The encroachment into the front yard is also necessary to allow for a stairwell and elevator necessary for life safety as required by Building Codes and Fire Codes. With the additional floors of patient rooms and other medical services areas, this additional Elevator and Stair Tower is required. It will be closer to the front property line but is estimated to only be 400 SF of encroachment area as the existing building does not sit at a right angle to the street. If the variances are not granted, it would make it difficult for Bayhealth to make necessary improvements to the existing campus to serve the healthcare needs of the community.

Variance Recommendations

Staff recommends **approval** of the Variances that would allow for the increase the allowable height from 150 feet to 175 feet for a new 10-story Hospital Bed Tower (Variance #1) and for a

reduction of the minimum 10-foot front yard setback to allow for building encroachment of the Bed Tower Elevators and Stairs where adjacent to South Street (Variance #2).

Staff recommends **approval** of the two variances for reasons as follows:

- Staff believes that the applicant has provided appropriate justification to support the requested variances as presented in their Narrative, Site Plan, and Architectural Graphics package.
- The ten stories proposed are permitted within the IO (Institutional and Office Zone) zone by the *Zoning Ordinance*, but additional vertical height (floor-to floor/ceiling) is needed to support the hospital use of room space with mechanical and structural systems. This increases the Bed Tower's height from 150 feet to 175 feet while the number of stories is ten stories.
- The building encroachment into the front yard on South Street is also justified to accommodate the Elevator and Stair Tower as this encroachment is in a location where a bridge crosses South Street and where the surrounding area on South Street is part of the overall Bayhealth campus. The area of encroachment of approximately 400 SF is a very small area of the hospital building footprint.
- These variances of *Zoning Ordinance* are necessary for building construction to meet Building Code and Fire Code provisions of the hospital use/function and life safety requirements for egress.
- The applicant has demonstrated that the granting of these variances would be consistent with the IO zone; consistent with the character of the immediate area and uses contained therein; that they would not adversely affect neighboring properties; and that exceptional practical difficulty exists for the hospital in making improvements to the property without the variances.

Advisory Comments to the Applicant

- If granted, the variance becomes null and void if work has not commenced within one (1) year of the date the variance was granted. At present there is no provision for extension.
- The Applicant should be aware that whenever the Board of Adjustment denies an application for a variance, such application for a variance, or an application on the same property, which is substantially similar, shall not be accepted for reconsideration by the Board of Adjustment sooner than one year from the date of denial (*Zoning Ordinance*, Article 9 §3.8).
- This project for a proposed building addition/expansion of the hospital is subject to a separate Site Development Plan/ Site Development Master Plan review process with the Planning Commission. The applicant should contact the Planning Staff to determine the appropriate application and review process for any proposed projects.
- The applicant shall be aware that approval of any variance application does not represent a Building Permit, Demolition Permit, Sign Permit, or other construction activity permit approval. A separate application submission is required before issuance of permits by the City of Dover.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	BOA Application Form	1
B	Zoning Map Exhibit (Staff)	1
C	Applicant's Written Responses: Narrative	3
D	Site Plan (size 11 x 17)	2
E	Site Plan (size 24 x 36)	2
F	Architectural Graphics Package (Sheet 01-05)	5



Board of Adjustment Application

Application Information

Property Address: 640 South State Street, Dover, DE 19904

Tax Parcel Number: 02-05-077.13-01-52.00-000

Owner Name: Bayhealth Medical Center, Inc.

Property Zoning: I.O. – Institutional & Commercial

Variance (s) Requested: 1. Height variance from 150' to 175' for a new 10 Story Hospital Bed Tower.
2. Variance from the 10' Building Setback Line along South State Street to allow for the building
to encroach the setback line for the Bed Tower Elevators and Stairs.

*Provide eight (8) copies of any survey, drawings, photos, site plan, etc. that may help support your application, and your response to the criteria. The criteria for a use variance and appeal are on the back of the form.

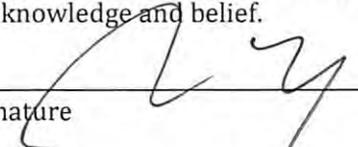
Area Variance

An area variance shall be evaluated on the following criteria: **Please state how your request meets each of these four (4) criteria.**

1. The nature of the zone in which the property lies;
2. The character of the immediate vicinity and the contained uses therein;
3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; and
4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is permitted uses under the provisions of the zoning ordinance.

Signature

I Mike Metzger do affirm that I am the property owner on which the variance is sought and that all the information provided in this application is accurate to the best of my knowledge and belief.

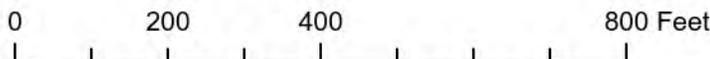
 Vice President Facilities and Support Services 9/11/2025
 Signature Title Date



Title: Lands of Bayhealth Medical Center Inc - Application for Variances
Addresses: 640 South State Street & 625 South Governors Ave
Parcel ID: ED05-077.13-01-52.00-000
Zoning: IO (Institutional & Office Zone)
SWPOZ (Source Water Protection Overlay Zone Tier 3 - Excellent Recharge Area Zone)
Owner: Bayhealth Medical Center, Inc.
Date: 9/22/2025

Legend

-  Subject Property
-  Dover Boundary
-  Zoning
-  Kent County Parcels
-  Building Footprints
-  Dover Parcels
-  SWPOZ Tier 3





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Board of Adjustment Application – Area Variance

1. Nature of the Zone in Which the Property Lies

The subject property is located within the Institutional Office (IO) zoning district, which expressly permits hospital use. Bayhealth Kent Campus Hospital has continuously operated on this site since the early 1900s and has served as the primary hospital and healthcare institution for the region.

Since the original hospital building opened in 1927, the campus has experienced significant growth to meet the needs of a growing community. This growth resulted in the acquisition of numerous surrounding properties and the development of a multi-building, horizontally oriented facility. The current campus layout includes four separate elevator banks serving multiple patient bed towers and long, winding corridors that are difficult for patients, particularly the elderly, to navigate.

The proposed project will construct the remaining six stories of a previously approved ten-story bed tower, consolidating patient care vertically. This design will simplify wayfinding, improve operational efficiency, and reduce internal travel distances for patients, staff, and visitors.

The project will also eliminate outdated dual-occupancy patient rooms and replace them with single-patient rooms, consistent with current privacy standards, best practices in patient care, and applicable regulations. To meet community demand, approximately 100 additional beds will be added, helping to alleviate emergency department backups caused by insufficient inpatient capacity.

The ten-story tower was approved by the City of Dover in 2006, and four stories have already been constructed. The proposed expansion is therefore consistent with prior approvals, existing zoning, and long-term planning for the site. The Central Utility Building (CUB) located to the north will continue to support the tower by handling materials and supply deliveries via the existing bridge over South Street.

2. Character of the Immediate Vicinity and Contained Uses

The immediate vicinity of the subject property is characterized by a mix of institutional, commercial, and medical uses. The majority of surrounding parcels are owned by Bayhealth and directly support hospital operations.

- **North:** All property to the north is Bayhealth-owned, IO-zoned, and used for parking and support functions, including the CUB. Two Bayhealth office buildings are also located in this area.
- **East:** Across South State Street, two IO-zoned properties exist. One is Bayhealth-owned and used for staff parking, a surgery center, and a daycare facility. The other is Holy Cross Church and School, which has coexisted with Bayhealth for decades in a mutually supportive relationship.
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BECKER MORGAN GROUP, INC.

309 SOUTH GOVERNORS AVENUE
DOVER, DELAWARE 19904
302.734.7950

THE TOWER AT STAR CAMPUS
100 DISCOVERY BOULEVARD, SUITE 102
NEWARK, DELAWARE 19713
302.369.3700

PORT EXCHANGE
312 WEST MAIN STREET, SUITE 300
SALISBURY, MARYLAND 21801
410.546.9100

780 LYNNHAVEN PARKWAY
SUITE 400-444
VIRGINIA BEACH, VIRGINIA 23452
757.734.9110

3333 JAECKLE DRIVE, SUITE 120
WILMINGTON, NORTH CAROLINA 28403
910.341.7600

1942 EAST 7TH STREET, SUITE 240
CHARLOTTE, NORTH CAROLINA 28204
980.270.9100

314 EAST MAIN STREET
CLAYTON, NORTH CAROLINA 27520
919.243.1332

www.beckermorgan.com

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Overall, the immediate vicinity is a well-established medical and commercial corridor that has evolved with Bayhealth's growth and remains consistent with the intent of the IO zoning district.

3. Effect on Neighboring Properties if Restriction Is Removed

Granting the requested variances (1) increasing the maximum height from 150 to 175 feet and (2) allowing a 400-square-foot projection into the Building Restriction Line (BRL) will not adversely impact neighboring properties.

The tower's ten-story height was previously approved by the City of Dover in 2006, and four stories have already been completed. Surrounding property owners have been aware of this development for years. Nearly all adjacent properties are Bayhealth-owned and used for hospital operations. The few remaining properties are IO- or C3-zoned commercial uses that have coexisted compatibly with the hospital for decades.

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4. Hardship or Practical Difficulty if Restriction Is Not Removed

Strict enforcement of the current height and BRL restrictions would result in significant hardship and exceptional practical difficulty for Bayhealth in carrying out permitted hospital uses.

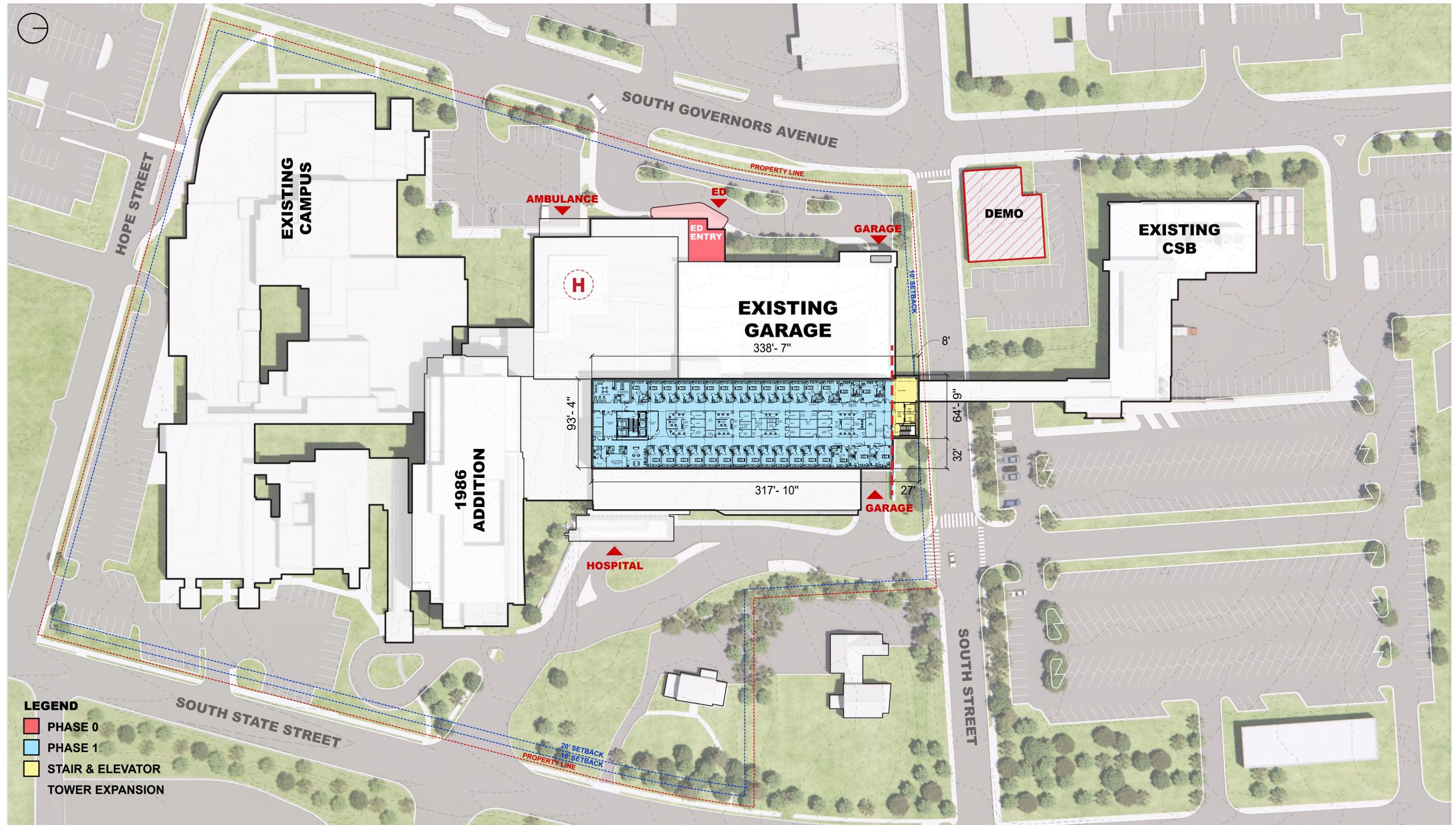
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VARIANCE APPLICATION DRAWINGS



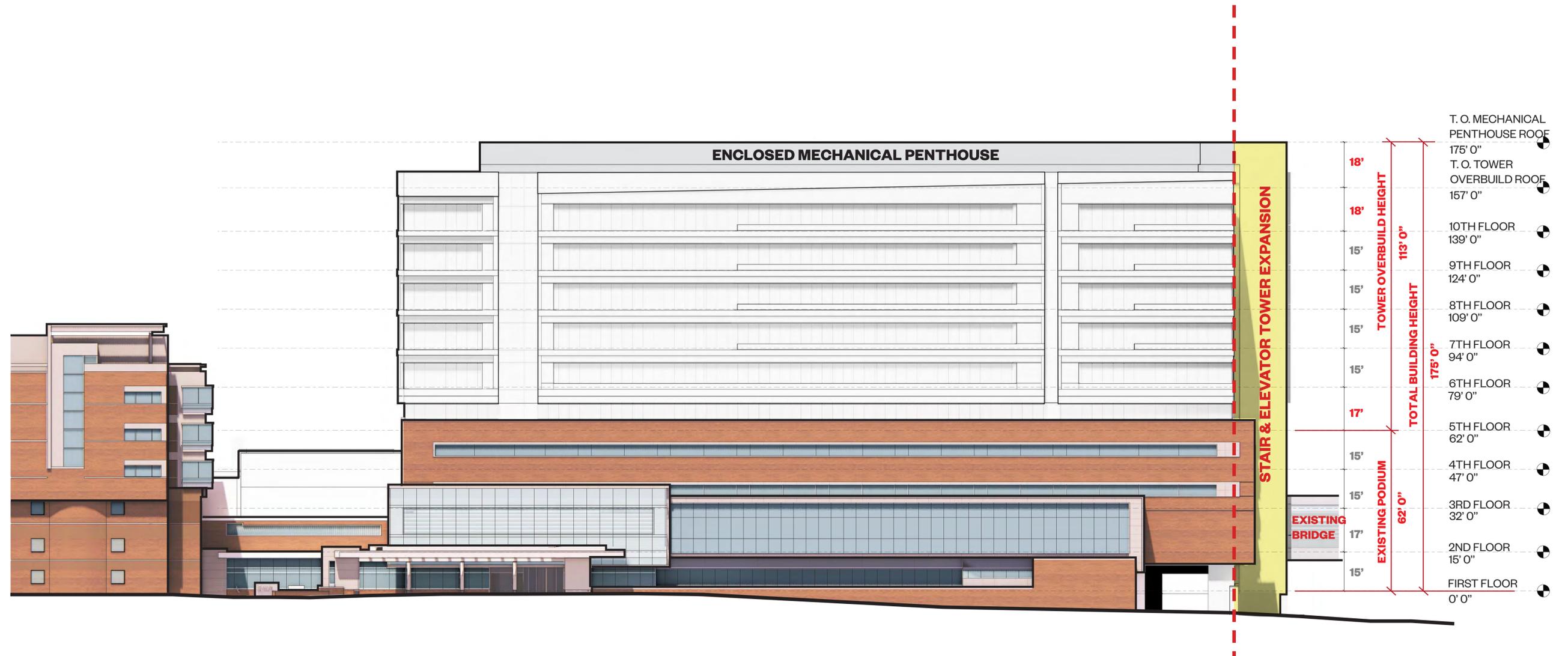
Bayhealth Kent Campus Expansion

Dover, Delaware

SITE PLAN

**EWING
COLE**

VARIANCE APPLICATION DRAWINGS



Bayhealth Kent Campus Expansion

Dover, Delaware

EAST ELEVATION



VARIANCE APPLICATION DRAWINGS



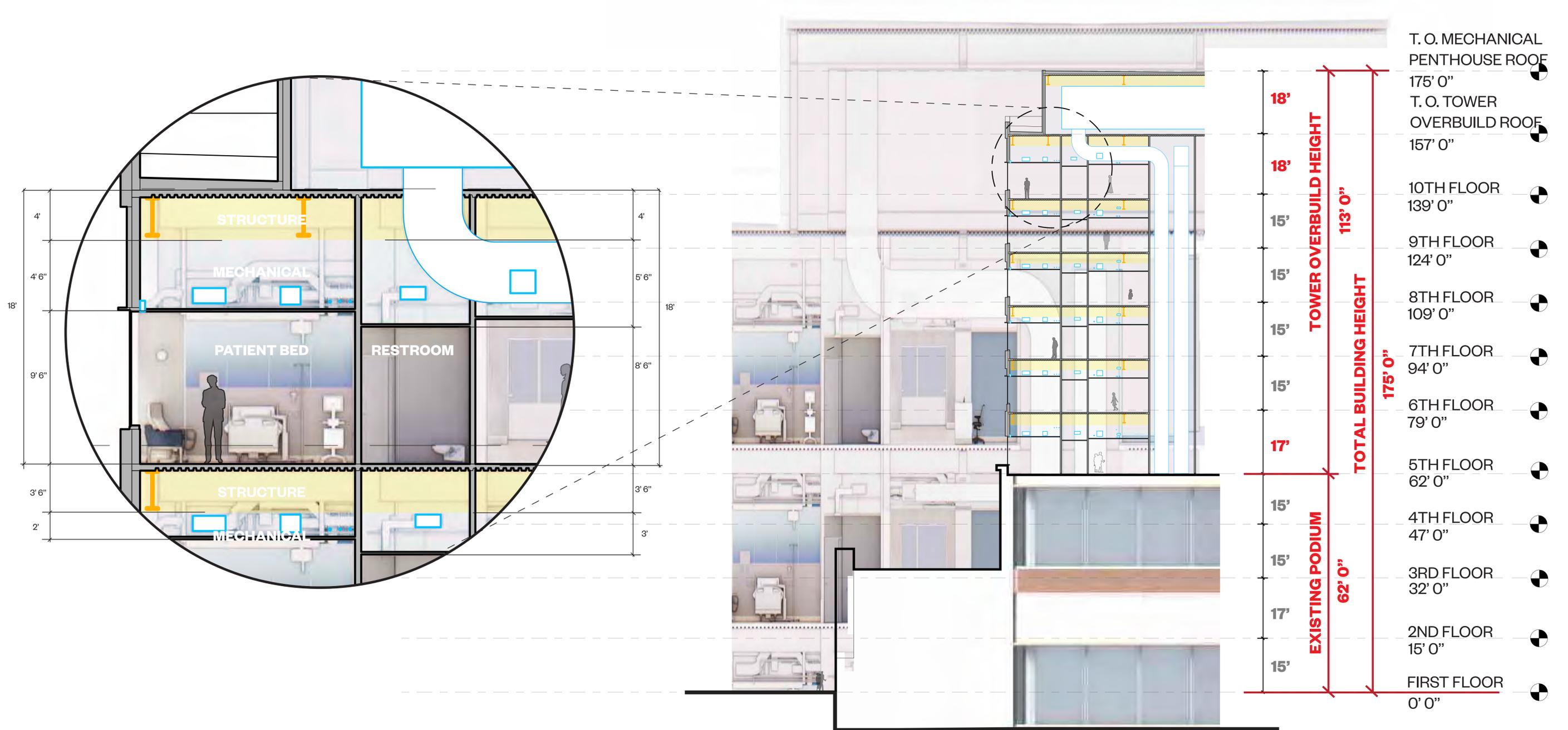
Bayhealth Kent Campus Expansion

Dover, Delaware

NORTHEAST BIRDSEYE VIEW

**EWING
COLE**

VARIANCE APPLICATION DRAWINGS



Bayhealth Kent Campus Expansion

Dover, Delaware

HEALTHCARE BUILDING SECTION



VARIANCE APPLICATION DRAWINGS

