

**CITY OF DOVER BOARD OF ADJUSTMENT
AGENDA**

Wednesday, December 19, 2018 at 9:00 AM

**City Hall, Council Chambers
15 Loockerman Plaza, Dover, Delaware**

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES of September 19, 2018 Meeting

APPROVAL OF MINUTES of November 21, 2018 Meeting

COMMUNICATIONS & REPORTS

1. Reminder: The next Board of Adjustment regular meeting is scheduled for January 16, 2019 at 9:00am in the City Council Chambers.
2. Schedule of Deadlines and Meetings for 2019

NEW BUSINESS

Applicant #V-18-08

360 Nottingham Court. Claude and Gwen Pritchett have requested an area variance from the requirements of the *Zoning Ordinance*, Article 4 §4.41 pertaining to the minimum rear yard setback requirement in the R-8 (One Family Residence Zone). Specifically, the applicant proposes to reduce the required rear yard setback requirement of 30 ft. to 26.4 ft. The minimum setback requirement for the R-8 zone is 30 ft. Subject property is zoned R-8 (One Family Residence Zone). Tax Parcel is ED-05-085.12-04-26.00-000. The owners of record are Claude and Gwen Pritchett.

Applicant #V-18-09

100, 250, 350, 400 & 550 Shrewsbury Court. Blue Hen Apartments, LLC has requested a variance from the requirements of the *Zoning Ordinance*, Article 5 §1.12 pertaining to the minimum setback of an accessory building in a residential zone such as RG-2 (General Residence Zone). Specifically, the applicant is seeking a variance for five newly built parking garages, with a setback of 4.85 ft. (4 ft. 10.2 inches) away from the property line. The minimum setback required for an accessory structure under the zoning is 5 ft. Subject property is zoned RG-2 (General Residence Zone). Tax Parcel is ED-05-077.00-01-01.00-000. The owner of record is Blue Hen APT, LLC. *AS AMENDED: The applicant has revised their request for the December 19, 2018 meeting and now seeks a setback of 4.7 feet (4 ft. 8.2 inches).*

Applicant #V-18-10

1240 McKee Road. Michael Graham on behalf of PAM Dover (Post Acute Medical Rehabilitation Hospital of Dover) has requested a variance from the requirements of the *Zoning Ordinance*, Article 5 §4.7 pertaining to the maximum size of permitted signs. Specifically, the applicant seeks to permit one (1) wall sign sized 118.31 SF, in lieu of the maximum 32 SF per sign permitted. Subject property is zoned IO (Institutional and Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). Tax Parcel is ED05-067.00-01-33.00-000. The owner of record is PAM Dover DE IRF LP.

Applicant #V-18-11

127, 129, 133 and 135 Roosevelt Avenue. David Miller on behalf of Miller Investments LLC has requested variances from the requirements of the *Zoning Ordinance*, Article 4 §4.3; Article 5 §1.13; and Article 6 §5.3. Specifically, the applicant seeks to exceed the maximum 60% lot coverage of RG-2 (General Residence Zone) and permit construction on 76.7% of the lot area. The applicant also seeks to permit construction of accessory buildings totaling 56.1% of the side and rear yard areas, when the maximum allowed accessory building area for

these yards is 30%. Finally, the applicant seeks to allow parking of vehicles within 15 feet of a wall belonging to a multiple dwelling. Subject property is zoned RG-2 (General Residence Zone). Tax Parcels: ED-05-077.18-02-71.00-000, ED-05-077.18-02-72.00-000, and ED05-077.18-02-73.00-000. The owner of record is Miller Investments LLC.

Applicant #V-18-12

1738 Forrest Avenue. Louise Warren on behalf of Dover Christian Church has requested a variance from the requirements of the *Zoning Ordinance*, Article 5 §4.7 pertaining to the maximum size of permitted signs. Specifically, the applicant seeks to permit one (1) monument sign sized 32 SF, in lieu of the maximum 12 SF permitted for such a sign based on the zoning. Subject property is zoned R-10 (One Family Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). Tax Parcel is ED05-075.00-01-04.00-000. The owner of record is Dover Christian Church Inc.

Applicant #V-18-13

101 Ipswich Court. Blue Hen Apartments, LLC has requested a variance from the requirements of the *Zoning Ordinance*, Article 4 §4.3 pertaining to the minimum setback of a multiple dwelling unit structure in the RG-2 (General Residence Zone). Specifically, the applicant is seeking a variance for a currently under construction apartment building, with a setback of 29.8 ft. (29 ft. 10.2 inches) away from the property line. The minimum setback required for a multiple dwelling unit structure under the zoning is 30 ft. Subject property is zoned RG-2 (General Residence Zone). Tax Parcel is ED-05-077.00-01-01.00-000. The owner of record is Blue Hen APT, LLC.

ADJOURN

29 Del. C. § 10004(e)(2)

THE AGENDA ITEMS MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
September 19, 2018

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, September 19, 2018 at 9:00 A.M. with Chairman Sheth presiding. Members present were Chairman Sheth, Mr. Keller, Mr. Hufnal, Colonel Ericson and Mr. Senato.

Staff members present were Mrs. Savage-Purnell, Mr. Diaz, Mr. Swierczek, Mr. Hugg, and City Solicitor Mr. Rodriguez.

APPROVAL OF AGENDA

Mr. Senato moved to approve the amended agenda to withdraw application V-18-07 per the applicant's request. The motion was seconded by Mr. Hufnal and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF JULY 18, 2018

Mr. Keller moved to approve the meeting minutes of July 18, 2018 with minor corrections. The motion was seconded by Colonel Ericson and unanimously carried 5-0.

OPENING REMARKS CONCERNING APPLICATIONS

Mr. Dave Hugg, Planning Director stated that the meeting today will be conducted in accordance with the motion of the amended Agenda. There is one (1) application on the agenda under New Business. Each Application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. If the Board needs to consult the City Solicitor, they will recess to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

All public notice for the new application on this agenda was completed in accordance with Code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

NEW BUSINESS

Applicant #V-18-06.

100 Enterprise Place. Silver Lake Realty, LLC has requested a variance from the requirements of the *Zoning Ordinance*, Article 3 §20.54 and Article 4 §4.16 pertaining to the maximum lot coverage of parcels in the IPM (Industrial Park Manufacturing) Zone. Specifically, the applicant proposes to add 24 parking spaces, increasing the impervious lot coverage on the site from 64.44% to 66.03%. The maximum lot coverage for the IPM zone is 65%. Subject property is zoned IPM (Industrial Park Manufacturing) Zone. Tax Parcel is ED-05-076.15-01-01.00-000. The owner of record is Silver Lake Realty, LLC.

Exhibits for the Record: Staff Report, zoning exhibit, and statement and plans submitted by the applicant. Legal Notice was published in the Delaware State News on September 9, 2018. The public was notified in accordance with regulations.

Mr. Swierczek gave a summary presentation of the Variance Application Request.

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

Representative: Mr. Troy Adams, Mountain Consulting Inc., Mr. Scott Henning, SLDE Management LLC/Silver Lake Realty LLC Property Manager

Mr. Troy Adams was sworn in by Mr. Rodriguez.

Mr. Adams testified that he was present today with Mr. Henning who is responsible of taking care of the facilities at 100 Enterprise Place. As stated by Mr. Swierczek, there are major tenants at this location such as Easter Seals, Government Support Services, General Floor and the Board of Elections. It was a warehouse at some point but was converted to office space. The tenants have a strong pull meaning between clients and employees there is a lot of traffic going in and out daily. There are special days where Easter Seals brings in by DART Paratransit their clients to the office. As you refer to the exhibits on a typical day as it occurs there are several buses that take up several parking spaces which then prohibit other clients and other tenants from parking and creates a shortage of parking. With Government Support Services, there are some conference rooms in their building that are used as a training center for state agencies. You may have a day where Easter Seals may bus in their clients and Government Support Services is having training sessions which would create a high volume of vehicles. The buses park as such where twenty (20) plus spaces are not available. There is enough space on the north end grassy area along Commerce Way that would be perfect for an additional estimated twenty-four (24) parking spaces. In no way do we see that the spaces will be out of character or anything. We obviously must go through the normal process with Planning and Zoning to get the spaces officially constructed. Besides that, this appears to be a reasonable request so that Mr. Henning can satisfy his tenants that have been there for a while and have settled in and we do not want to see them go away. The nature of our request is to be able to create the additional twenty-four (24) spaces which equates to about 1.03% variance beyond the 65% maximum impervious coverage that is required for the IPM (Industrial Park Manufacturing: Planned Industrial Park) zone.

Mr. Senato asked if the buses were parked in the 10 spaces all day? Mr. Adams replied that he would let Mr. Henning answer the question.

Mr. Scott Henning was sworn in by Mr. Rodriguez. Mr. Henning replied that the buses come every single day. We have somewhere in the neighborhood of 12-15, sometimes plus buses that park in the front of the Easter Seals location to off load and load throughout the day. We have corner off that section of the parking lot specifically for Easter Seals to take people in and out throughout the day.

Mr. Senato asked how many of the spaces are occupied that has signage for loading and unloading. Mr. Henning replied there are approximately 20 parking spaces. They are not filled all day long, but they are opened so that the buses come in and out of the area all day. In the morning they open around 8:00 a.m. and the buses start to come in. Most of the time there are around 12-15 plus buses that circulate through the parking lot. Roughly for 40-minutes the buses are unloading their customers to the premises and then they leave. You then have a period of time (could be a couple of hours) then another bus will show up and drop off some more customers. There is not always a bus parked there if that is what you are looking for. We have to leave those spaces open throughout the day so that the buses do have the access to come in and out and park because they are dealing with people that are in wheelchairs or cannot walk. They park the buses crooked to make the loading and unloading as easy as possible.

Mr. Senato asked what the probability of the land across the street was for being opened for an additional 24 vehicles. Mr. Henning replied that he was not sure he followed what Mr. Senato was asking. Mr. Hugg replied that the property across the street is now the Enterprise Park Office of First State Ortho and that property is occupied fully for existing use.

Mr. Henning mentioned that it was part of the issue where First State Ortho has moved in and they have asked their employees to park on the street which has now pushed the Government Support and the other tenants' employees to have no place to park. We have this strain of street parking that is no longer available for his tenants.

Mr. Senato asked if the tenant was close to the parking spaces or on the opposite side of the building. Mr. Henning asked if Mr. Senato was referring to the proposed area. Mr. Senato replied yes. Mr. Henning replied they are close to it. The Department of Elections and GSS (Government Support Services) would share because they are both within normal walking distance for the parking spaces.

Mr. Senato mentioned as he referred to the exhibits that across the street is an empty lot. He asked Mr. Hugg if there was a proposed building for the lot. Mr. Hugg replied yes, there is a major office building occupied on the green space with parking for the First State Ortho's new Dover office. There is also 20,000 SF of total floor space. That site is fully developed.

Mr. Henning mentioned as he referred to the exhibit that next to the last page shows the new building across the street.

Mr. Keller asked for clarification if Mr. Henning was a principal under the LLC for Silver Lake Realty. Mr. Henning replied that he is the property manager for the company which is out of Northern New Jersey and New York. He was asked to bring the application forward. The principal that would normally sign the documentation was out of the country at the time. He was asked by his boss to sign the application and meet with the Board of Adjustment.

Mr. Keller asked Mr. Henning if he was in fact with SLDE Management LLC. Mr. Henning replied yes.

Mr. Keller asked Mr. Henning if he was the contracted property manager. Mr. Henning replied yes.

Chairman Sheth stated that Mr. Rodriguez stated that it was ok for Mr. Henning to sign the document.

Mr. Keller mentioned that he agreed with the responses regarding the criteria which the Board of Adjustment always undertakes in review and to give some evaluation as to whether there is an Exceptional Practical Difficulty. So in looking at that kind of a circumstance he did not find that there is an Exceptional Practical Difficulty with the applicant requests or findings; however, within that evaluation the Board can give consideration whether it is an Exceptional Practical Difficulty or an unnecessary hardship. He would make the statement that he would deem it an unnecessary hardship as opposed to an Exceptional Practical Difficulty in the circumstance for the need of additional parking spaces.

Mr. Hufnal stated that he would agree with Mr. Keller's statement because in fact it states in the Staff Responses that the Staff considered the applicant having the variance approved to be for an unnecessary hardship rather than an Exceptional Practical Difficulty.

Colonel Ericson stated that he would disagree because looking at this they have already proved that there is a lack of parking spaces for the people that use the facility. In fact, one of the agencies may be forced to leave because they do not have enough parking. The applicant is asking for 1.03% increase in area which is very small. Twenty-four more parking spaces does not seem unreasonable to him at all.

Mr. Keller mentioned that what he was saying from the tenant's perspective and the landlord's management and ownership perspective they are considering that their need for additional parking represents to them an unnecessary hardship if they were unable to achieve through a variance application for additional spaces. This somewhat stems from apparently by the information submitted that some tenants have expressed that unless there is additional parking provided, they may seek other properties or other locations to conduct their respective businesses.

Mr. Hufnal agreed with Mr. Keller because it was his understanding if they could not get the approved parking spaces, they would need to look to find another facility to move to in order to get the proper parking that they need rather than use other facilities' parking. This was their need for having the additional parking needed.

Chairman Sheth asked if there was a language issue or there was a disagreement.

Mr. Keller stated that quite frankly he agreed with Staff Response that if the variance was not approved that it would represent somewhat of an unnecessary hardship to the ownership of the property because of the result and lack of having additional parking spaces approved. Again, he is in agreement with Staff Response to the due the consideration that the Board has to give as an Exceptional Practical Difficulty or unnecessary hardship. Some of his thought when giving some evaluation of that was that its not an Exceptional Practical Difficulty because there is always the possibility if a tenant leaves that building you may have another tenant to move in that does not

require as much parking spaces. He thinks at least two (2) or more tenants by virtue of the information provided have expressed some concerns about the lack of parking. It seems to him to be a reasonable view.

Mr. Senato mentioned that in the current photograph on the front of the building it shows an empty lot across the street dated August 20, 2018.

Mr. Adams stated that it is an older aerial that is publicly available. It is an oversight on his part. In the stated aerial, the building is not captured yet in what is publicly available.

Mr. Senato mentioned regarding the photograph whereas he has to make a decision for the betterment for the City. When the client comes in front of the Board of Adjustment, his decision is based upon the information given to him by the City and the client. Therefore, he is looking at a lot that is empty. So, in his mind he is saying there is an empty lot and if there was a possibility that you would consider (if the lot did not have a building on it) putting 30-40 parking spaces there. In his opinion the aerial photo is misleading; therefore, he would have to base his decision on that.

Mr. Swierczek further added that this happens quite a lot for exhibits that they have to pull from Goggle maps. This is the quickest way to be able to provide a satellite image. It does not necessarily update weekly or monthly. When we pull an image, we have to provide the date when the image was pulled, but it would not necessarily be current to the date (of the photo) if that makes sense. The applicant provided in Exhibit D the Photo (#7) that does show the building on the lot that appears empty in the satellite image.

Mr. Senato asked if Photo #7 was showing the building across the street from the complex. Mr. Swierczek replied correct. The top photo on page 4 of Exhibit D (the newer looking building with the water tower at the rear) that is the building that is at the current location that appears to be an empty lot in the satellite photo. Mr. Senato replied, thank you.

Mr. Senato mentioned as a point of information when the aerial photos are obtained from satellite that might not be accurate and is being used to determine decisions that are made by the Board of Adjustment, would it better if the City provided more accurate photos and perhaps compare before and after photos. This is just his opinion. When he looks at something and he looks at the paperwork in front of him, that is how he makes his decision. And if that being the case and is happening on a regular basis when the clients or the City come before the Board with the information, he could be making a decision and reality, he should be voting another way (either yea, nay, or abstaining). He would prefer to be 100% accurate; and, in this case, about that lot so that he knows exactly what is going on. This is not a criticism.

Chairman Sheth stated that Mr. Senato's statement was right, but it was already corrected by Mr. Hugg as to what is going on in the area. The applicant suggested that it was the most recent available by Goggle maps and as mentioned by Mr. Swierczek. Chairman Sheth mentioned that he agreed with Mr. Senato but at the same time it was corrected as much as it could be. Mr. Senato mentioned that he understood, but this is just the way his mind works.

Chairman Sheth opened the public hearing.

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

Chairman Sheth questioned if there was any additional correspondence for the record. There was no other correspondence.

Mr. Keller moved to approve variance application V-18-06 as submitted and based upon the report by the City lending substantial support for approval of the variance as requested, supplemented by the information and testimony given by representative of the ownership. The motion was seconded by Mr. Hufnal. The motion unanimously carried 5-0.

Mr. Senato mentioned for the record that he will not be able to attend the October meeting as he will be out of town.

Mr. Hufnal stated that he attended a meeting yesterday and Mr. Hugg was also present at the meeting on the Kent County Economic Development. For three (3) years he has been mentioning that we need to do something with our Sign Ordinance in the City because it seems like these companies come in and are denied because of the signage and regulations that the City has that he thinks is outdated. At the meeting, they talked about the reengineering of some of the City's regulations because we are losing business. They also mentioned the Permitting regulatory process takes too long. He really thinks we need to look at this; for example, the McDonald's case that came before the Board in July. You can go to Milford or Smyrna and they have those buildings up and they have the standards that are set up by the corporation for signs and their regulations. The signs are premade because that is the company decision; they are not made to suit the property. He asked why Smyrna can have a regulation for signs that is different, and they can allow things to happen and we deny them. He thinks in some respect that drives people away that want to consider coming to Dover because of our severe regulations. He is not saying to loosen them up, but he thinks they need to be looked at and revised to bring more people to Dover.

Chairman Sheth mentioned that we had horrible signs until the Board of Adjustment decided to take action and we now have a much better sign area on Route 13 than in the past. Large corporations can spend hundreds of thousands of dollars on signs, small businesses cannot compete with them and they we have to approve it. People do not spend enough money for architectural signs because they go by the size not how it looks. He stated that he understood what Mr. Hufnal was saying, but what they decided, and it was up to the City Council. A lot of questions can be solved during the Planning Commission meeting and when they apply so they do not have to come before the Board of Adjustment. Mr. Hugg and Mr. Rodriguez can make the suggestion to the City Council because the Board of Adjustment follows the Sign Ordinance. The Board of Adjustment does a lot of good things for the City by getting rid of the certain signs. For example, there was a 200ft pole that anybody could see and it is gone. Colonel Ericson agreed with Chairman Sheth as he would hate to see the point where corporations determine what our standards are. Mr. Senato mentioned Home Depot who was very adamant and wanted a tall sign. The Board of Adjustment restricted them according to the Sign Ordinance and they were not happy. He sees a lot of different cities and in small towns where the signs are ridiculous especially if they do not have a Sign Ordinance. He thinks the City of Dover has a good control on the signs. Perhaps there were one or two instances where you would hope things would

change. He stated that he is personally satisfied with the ordinances. In fact, everything is uniform when you go up Route 13 whether it is north or south.

Chairman Sheth mentioned that Mr. Hufnal's concern was not to chase away businesses because of signs. He stated that he has not seen any businesses leave because of signs.

Mr. Hufnal commented that there were two companies that came to Dover and one of them decided not to build in Dover because they had legal problems with the lease. This property was located next to Pizza Hut and the Board of Adjustment approved them with a big parking lot. The other company that did not stay due to restrictions by the City was Cracker Barrel who was looking at the property near the Route 1 exit. He stated that they are just comments that the Board of Adjustment and City should think about when we are looking at these ordinances.

Colonel Ericson asked whether if Cracker Barrel issue was the expensive cost for building at that location; it was not because of the signs. Mr. Hufnal replied no it was not because of signs; it was other factors within the City such as the cost of the Permit. Mr. Senato agreed with Mr. Hufnal that when he looked at the \$82,000 fee and if he was a businessman, he would be afraid of what else would come up because that price is ridiculous. He thinks that the cost should also be looked at because that will keep businesses away.

Chairman Sheth stated that he did not think it was the Board's responsibility, but they should let City Council know. If you really look at the history, anyone who came before the Board of Adjustment came after the building was built, no one has come before. Walgreens on Route 8/Saulsbury Road and Wawa on Route 13/Court Street came before the Board of Adjustment and they did not leave. The Wawa wanted a larger sign but was denied and they did not leave. He is not avoiding Mr. Hufnal's question or concerns.

Chairman Sheth asked Mr. Hugg and Mr. Rodriguez whether the City passes the ordinances and the Board of Adjustment follows the ordinances that have been approved.

Colonel Ericson agreed with Chairman Sheth. We have wondered way off from as far as what the Board of Adjustment responsibilities are; therefore, he moves to adjourn the meeting.

Mr. Keller commented to Colonel Ericson that the Board of Adjustment is not the legislative body; that is the responsibility of the Planning and Inspections Department and subsequently City Council.

The meeting was adjourned by Colonel Ericson and seconded by Mr. Senato at 9:53 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary

CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
November 21, 2018

The Regular Meeting of the City of Dover Board of Adjustment was opened and then closed due to a legal issue regarding the composition of the Board on Wednesday, November 21, 2018 at 9:00 A.M. with Vice Chairman Ericson presiding. Members present were Vice Chairman Ericson, Mr. Keller, Mr. Hufnal, and Mr. Senato. Chairman Sheth was absent.

Staff members present were Mr. Diaz, Mr. Swierczek, Mrs. Dawn Melson-Williams, Mrs. Harvey, Mrs. Savage-Purnell and City Solicitor Mr. Rodriguez.

Vice Chairman Ericson apologized that the Board needed to delay the cases (applications) for one month because a legal issue has come up that the Board was not aware of concerning the composition of the Board that needs to be resolved before hearing any cases (applications). We will hear the cases (applications) next month.

Again, he apologized, but the issue just came up this morning.

He asked if there were any questions and mentioned that the legal issues have nothing to do with any of the cases (applications). It is strictly an internal problem.

The meeting was closed by Vice Chairman Ericson.

Sincerely,

Maretta Savage-Purnell
Secretary

CITY OF DOVER
BOARD OF ADJUSTMENT

FINAL 12.13.2018

Schedule of application deadlines and Board of Adjustment meeting dates for the year of 2019. The submittal procedures for the Board of Adjustment are outlined in *Zoning Ordinance*, Article 9, Section 3. Prior to application submission a pre-application meeting with Planning Staff is required.

<u>MONTH</u>	<u>DEADLINE DATE</u>	<u>MEETING DATE</u>
JANUARY	12/14/2018	01/16/2019
FEBRUARY	01/18/2019	02/20/2019
MARCH	02/15/2019	03/20/2019
APRIL	03/15/2019	04/17/2019
MAY	04/12/2019	05/15/2019
JUNE	05/17/2019	06/19/2019
JULY	06/14/2019	07/17/2019
AUGUST	07/12/2019	08/21/2019
SEPTEMBER	08/16/2019	09/18/2019
OCTOBER	09/13/2019	10/16/2019
NOVEMBER	10/18/2019	11/20/2019
DECEMBER	11/15/2019	12/18/2019
JANUARY	12/13/2019	1/15/2020

For Information Contact:

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City of Dover

Board of Adjustment

November 21, 2018

V-18-08

Location: 360 Nottingham Court

Applicant/Owner: Claude and Gwen Pritchett

Application Date: October 8, 2018

Tax Parcel: ED-05-085.12-04-26.00-000

Present Zoning: R-8 (One Family Residence Zone)

Present Use: Residence

Reviewed By: Tracey Harvey

Variance Type: Area Variance

Variance Requested: Reduction in the required rear yard setback from 30 feet to 26.4 feet or less to allow the construction of a 16 foot by 16 foot addition to the rear of the property.

Project Description:

The applicant is seeking a variance from Article 4, Section 4.1 of the *Zoning Ordinance*, the bulk standard requirements of the R-8 zoning, specifically as those requirements relate to setback requirements. The applicant proposes to construct a 16 foot by 16 foot (256 square feet) addition to the rear of an existing single-family detached home. The requested variance would allow for the reduction of the rear yard setback to reduce the 30 foot regulation by 3.6 feet for a total of 26.4 feet. The property is located at 360 Nottingham Court.

Adjacent Land Uses

The lands to the north, south, east, and west are all similarly zoned R-8 properties and have one-family detached residences located on them. An area map is included in Exhibit A.

Code Citations

Article 4, Section 4.1. [One-family residence zones.]

Bulk and parking regulations for one-family residence, R-20, R-15, R-10, R-8 and R-7 zones [are as follows:

TABLE INSET:

		For Dwellings In:				
		R-20	R-15	R-10	R-8	R-7
Minimum required:						
	Lot area (sq. ft.)	20,000	15,000	10,000	8,000	7,000
	Lot width (ft.)	120	100	80	70	50
	Lot depth (ft.)	150	125	110	100	100
	Front yard (ft.)	30	30	25	25	20
	Minimum side yard (ft.)	25	20	15	10	5
	Total both side yards (ft.)	50	40	30	20	10
	Rear yard (ft.)	40	40	30	30	30
	Lot coverage	20%	25%	30%	35%	40%

Exceptional Practical Difficulties Tests

Article 9, Section 2 of the *Zoning Ordinance* dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. In order to grant a variance, the Board must determine that an exceptional practical difficulty exists.

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 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 from the applicant

The applicant has provided background information and responses for the requested variance as it relates to the criteria. (See also Exhibit B)

Background

The house located at 360 Nottingham Court was constructed in 1979 on Lot No. 31 of the Mayfair II subdivision. Lot 31 is one of the shallower lots in the subdivision at 102.5' deep and is 8,256 s.f. (0.189 ac.). Claude and Gwen Pritchett purchased the home in August 1991 and have lived there since. The house is a 2-story home (see attached photographs) and the living space of the home is approximately 1,884 s.f. The house originally had 3 bedrooms; however, one of the bedrooms was converted to an office for an in-home business after one of their children moved out and when they started a transportation business known as D&J Transportation, LLC. The business is permitted and licensed by the City of Dover. They still have one child living at home.

The Pritchetts are needing additional space in their house to accommodate friends and family when they come to visit as they presently have no spare bedroom. They desire to add a 16' x 16' multipurpose sunroom onto the rear of their house that they could entertain guests and use as an office and meeting room for their current business. The room would also serve as a playroom for their grandchildren and a place to store books. The Pritchetts are in their senior years and also have the need for family to come help them from time to time and need a place for them to stay when they come. The multi-purpose sunroom would also free up the 3rd bedroom and allow them to accommodate their guests. They are happy with their home and have no desire to move and are also not in a financial position to do so. The business is a small business that provides transportation services for public carriers and school districts. The business is not in a financial position to be able to lease office space at an offsite location.

Based upon the current configuration of the rear of the house, the location of windows and doors, and the required setback of 30' from the rear property line, the maximum size that they could construct the multipurpose sunroom would be approximately 12' x 16'. While the width would be adequate they have determined, based upon their need and proposed uses, that the depth would not suffice for their needs and not provide for a very useable or practical space. They also cannot make the width any larger due the location of windows on the rear of the house (see attached architectural drawing).

An area variance shall be evaluated on the following criteria;

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

Applicant Response:

The property is located in an R8 zone, which is a one-family residence zone. The proposed multi-purpose sunroom is a use that is permitted and desirable in this zone.

Staff Response:

The property is zoned R-8 (One Family Residence Zone) and located in the Mayfair II Subdivision. The subject property is located to the south of Mayberry Lane and to the north of Webbs Lane. The surrounding properties are zoned R-8 and are residential uses.

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

Applicant Response:

The properties in the immediate vicinity of this property are all zoned R8 and have one-family residences located on them. Many of the houses have had additions added onto them over the years. The property directly to the rear of the applicant's property had a screened-in porch added onto the rear of the house.

Staff Response:

As the applicant describes, the character of the property's immediate vicinity are one family residences. The house is of similar size to other houses in the neighborhood, many of which have additions which is not uncommon for the neighborhood.

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

Applicant Response:

Removing or reducing the restriction upon the applicant's property would not affect neighboring properties or their uses. The proposed use is conducive to the existing uses in the neighborhood and the zone in which it is located. It would be in harmony with the neighborhood and other additions added onto other houses. As stated, the house to the rear of the applicant's property has a screened in porch added onto the rear of the house and is relatively close to the rear property line. However, there are trees and a 6' high wooden stockade fence along the rear property line that separate the two properties and provide for a buffer and screening. There is also a 6' high wooden stockade fence to the right or south side of the property that would screen the addition from the adjoining property on that side. The left or north side of the property is located along a street, which also has a 6' high wooden stockade fence. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulation and ordinances and will not represent a radical departure therefrom and will not be injurious to the neighborhood or the adjacent properties.

The construction of the addition will not change the character of the neighborhood and will not be detrimental to the public welfare.

Staff Response:

The removal of the restriction upon the applicant's property would not seriously affect neighboring properties and uses. The property is located on a corner lot in a cul-de-sac. The proposed addition would be located at the rear of the property which is fenced in and would have limited visibility from street view or from adjacent properties. As noted, the property in the rear of the applicant's property has an addition as well. There were also two building permits issued for additions in 2007 and 2009 for the properties located at 347 and 365 Mayberry Lane that are located across the street to the north of the applicant's property.

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:

If the restriction is not removed or reduced the restriction would create an unnecessary hardship or exceptional practical difficulty for the applicant/owner in their effort to make normal improvements to the house. The proposed addition is a permitted use under the provisions of the property; however, the house is constructed relatively close to all setbacks with the exception of the rear yard setback. The two street setbacks significantly impact the ability to add onto the house and there is inadequate remaining space between the house and the Mayberry Lane required setback to construct an addition. To do so would require an even greater variance in the setback in order to construct the addition on that side. Also, there is little to no practical space remaining on the right or southerly side of the house. The double street frontage is peculiar to this particular lot and none of these conditions resulted from the act of the applicant or any predecessor in title. The house is presently approximately 1,884 s.f., which is not a large house. The applicant needs additional space in order to house family and visiting guests as well as operate their existing in-home business, which has been approved and licensed by the City of Dover. The proposed addition is a reasonable use of the property. The strict application of the rear yard setback would not allow them to construct an addition of a useful or practical size. The variance requested would allow them to construct a useful addition and is the minimum variance that will allow them to do so. They cannot expand the width of the proposed sunroom due to the location of existing windows in the rear of the house and, even if they could, the existing available depth of 12' would not provide for a useful or practical multi-purpose room. The granting of the variance is necessary to allow for the reasonable use of the property and to allow for the construction of a practical and useful size multi-purpose sunroom as determined by the architect. The addition of the sunroom would also not exceed the allowable permitted impervious lot coverage of 35 percent.

Staff Response:

Failure to remove the restriction would result in an exceptional practical difficulty in that the *Zoning Ordinance* does not accommodate the size of the space needed for improvements to

the property to meet the conveniences and needs of the applicant. The property is located on a corner lot which would not allow for improvements to be made from either side of the property based on the requirements of the *Zoning Ordinance*. The depth of the property would not accommodate a useful size of the space. The property is located in area where there have been numerous improvements to the existing housing stock.

Variance Recommendations:

Staff recommends approval of the area variance to reduce the 30 feet minimum rear yard setback to an even 25 feet in order to allow for the construction of a 16 foot by 16 foot addition to the rear of the property for the following reasons:

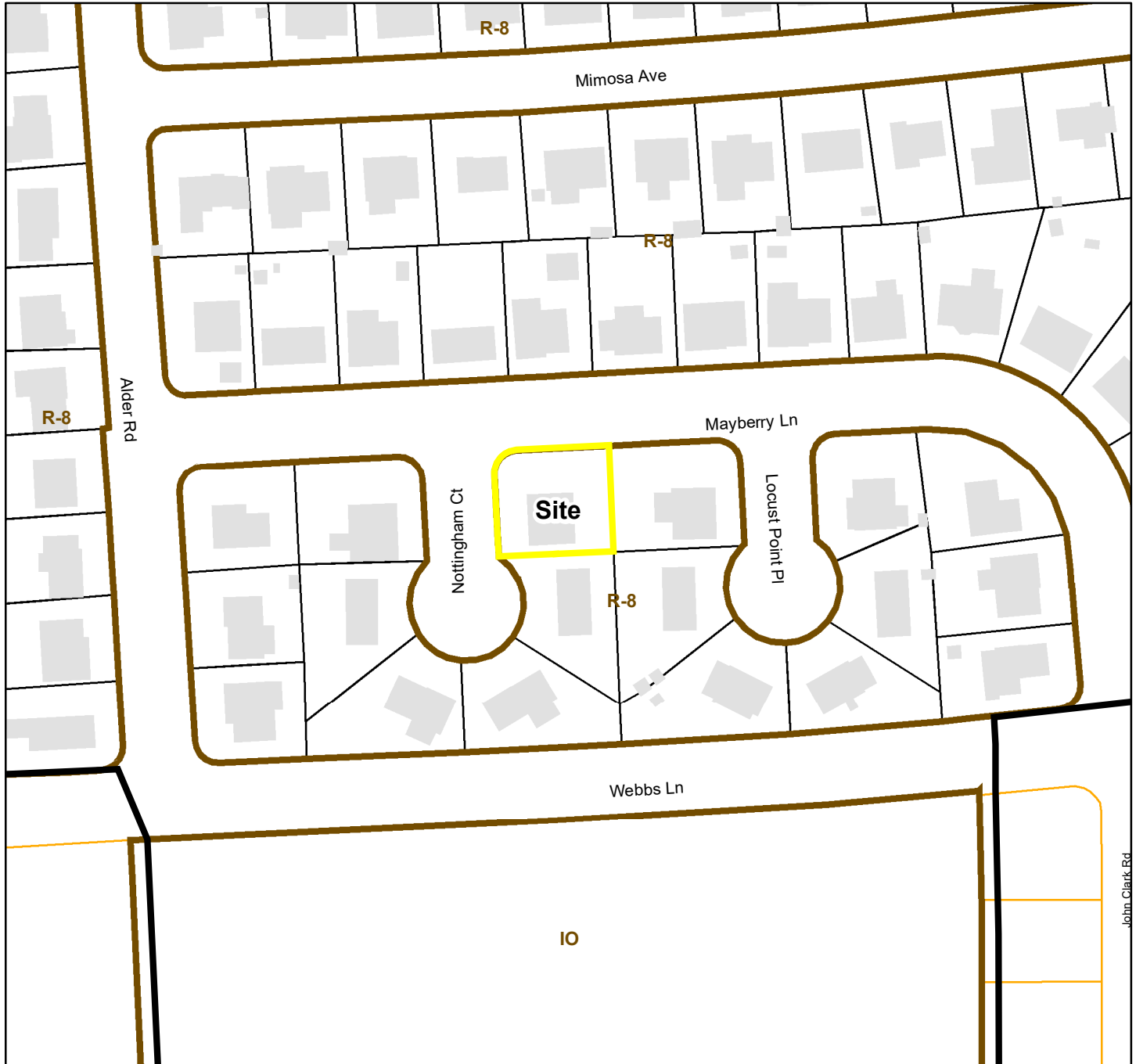
- The applicant has demonstrated that adherence to the requirements of the zoning ordinance would create an exceptional practical difficulty for the owner to make necessary improvements to the property.
- The expansion of the building would help improve and preserve the existing housing stock in the neighborhood as there are several neighboring properties with additions.
- The property is located on a corner lot which has two front yard setback requirements of 25 feet which impacts the ability for the applicant to add onto the property.
- The depth of the property limits the use as a practical space.
- The reduction in the rear yard setback from 30 feet. to 25 feet would not have an affect on the neighboring properties.

Advisory Comments to the Applicant

- If granted, variances become 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.
- Approval of a variance does not constitute a Building Permit. A Building Permit must be received from the City of Dover prior to the start of any construction work.
- If the variance is approved, staff is requesting an as-built survey to be submitted with the building permit to ensure the addition is in compliance with the approved rear yard setback.







GUIDE TO ATTACHMENTS

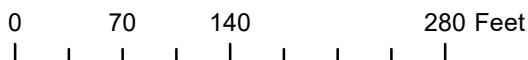
Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Applicant Statement and Responses to Criteria (Applicant)	1
C	Site Plan showing building addition (Applicant)	1 (8.5" x 14" portrait)
D	Architectural Plan (Applicant)	1 (8.5"x11", landscape)
E	Site Area Location (Applicant)	1 (8.5"x11", portrait)
F	Site Photographs (Applicant)	7 (8.5"x11", portrait)



Title: Lands of Claude and Gwen Pritchett
 Address: 360 Nottingham Court
 Parcel ID: ED-05-085.12-04-26.00-000
 Zoning: R-8 (One Family Residence Zone)
 Owner: Claude and Gwen Pritchett
 Date: 11/13/2018

Legend

-  Subject Property
-  Dover Parcels
-  Zoning
-  2012 Buildings
-  Kent County Parcels
-  Dover Boundary



**Board of Adjustment Application
Claude and Gwen Pritchett**

Response to Criteria

Background

The house located at 360 Nottingham Court was constructed in 1979 on Lot No. 31 of the Mayfair II subdivision. Lot 31 is one of the shallower lots in the subdivision at 102.5' deep and is 8,256 s.f. (0.189 ac.). Claude and Gwen Pritchett purchased the home in August 1991 and have lived there since. The house is a 2-story home (see attached photographs) and the living space of the home is approximately 1,884 s.f. The house originally had 3 bedrooms; however, one of the bedrooms was converted to an office for an in-home business after one of their children moved out and when they started a transportation business known as D&J Transportation, LLC. The business is permitted and licensed by the City of Dover. They still have one child living at home.

The Pritchetts are needing additional space in their house to accommodate friends and family when they come to visit as they presently have no spare bedroom. They desire to add a 16' x 16' multipurpose sunroom onto the rear of their house that they could entertain guests and use as an office and meeting room for their current business. The room would also serve as a playroom for their grandchildren and a place to store books. The Pritchetts are in their senior years and also have the need for family to come help them from time to time and need a place for them to stay when they come. The multi-purpose sunroom would also free up the 3rd bedroom and allow them to accommodate their guests. They are happy with their home and have no desire to move and are also not in a financial position to do so. The business is a small business that provides transportation services for public carriers and school districts. The business is not in a financial position to be able to lease office space at an offsite location.

Based upon the current configuration of the rear of the house, the location of windows and doors, and the required setback of 30' from the rear property line, the maximum size that they could construct the multipurpose sunroom would be approximately 12' x 16'. While the width would be adequate they have determined, based upon their need and proposed uses, that the depth would not suffice for their needs and not provide for a very useable or practical space. They also cannot make the width any larger due the location of windows on the rear of the house (see attached architectural drawing).

Area Variance Criteria

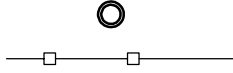
1. The property is located in an R8 zone, which is a one-family residence zone. The proposed multi-purpose sunroom is a use that is permitted and desirable in this zone.
2. The properties in the immediate vicinity of this property are all zoned R8 and have one-family residences located on them. Many of the houses have had additions added onto them over the years. The property directly to the rear of the applicant's property had a screened-in porch added onto the rear of the house.
3. Removing or reducing the restriction upon the applicant's property would not affect neighboring properties or their uses. The proposed use is conducive to the existing uses in the neighborhood and the zone in which it is located. It would be in harmony with the neighborhood and other additions added onto other houses. As stated, the house to the

rear of the applicant's property has a screened in porch added onto the rear of the house and is relatively close to the rear property line. However, there are trees and a 6' high wooden stockade fence along the rear property line that separate the two properties and provide for a buffer and screening. There is also a 6' high wooden stockade fence to the right or south side of the property that would screen the addition from the adjoining property on that side. The left or north side of the property is located along a street, which also has a 6' high wooden stockade fence. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulation and ordinances and will not represent a radical departure therefrom and will not be injurious to the neighborhood or the adjacent properties. The construction of the addition will not change the character of the neighborhood and will not be detrimental to the public welfare.

4. If the restriction is not removed or reduced the restriction would create an unnecessary hardship or exceptional practical difficulty for the applicant/owner in their effort to make normal improvements to the house. The proposed addition is a permitted use under the provisions of the property; however, the house is constructed relatively close to all setbacks with the exception of the rear yard setback. The two street setbacks significantly impact the ability to add onto the house and there is inadequate remaining space between the house and the Mayberry Lane required setback to construct an addition. To do so would require an even greater variance in the setback in order to construct the addition on that side. Also, there is little to no practical space remaining on the right or southerly side of the house. The double street frontage is peculiar to this particular lot and none of these conditions resulted from the act of the applicant or any predecessor in title. The house is presently approximately 1,884 s.f., which is not a large house. The applicant needs additional space in order to house family and visiting guests as well as operate their existing in-home business, which has been approved and licensed by the City of Dover. The proposed addition is a reasonable use of the property. The strict application of the rear yard setback would not allow them to construct an addition of a useful or practical size. The variance requested would allow them to construct a useful addition and is the minimum variance that will allow them to do so. They cannot expand the width of the proposed sunroom due to the location of existing windows in the rear of the house and, even if they could, the existing available depth of 12' would not provide for a useful or practical multi-purpose room. The granting of the variance is necessary to allow for the reasonable use of the property and to allow for the construction of a practical and useful size multi-purpose sunroom as determined by the architect. The addition of the sunroom would also not exceed the allowable permitted impervious lot coverage of 35 percent.

LEGEND

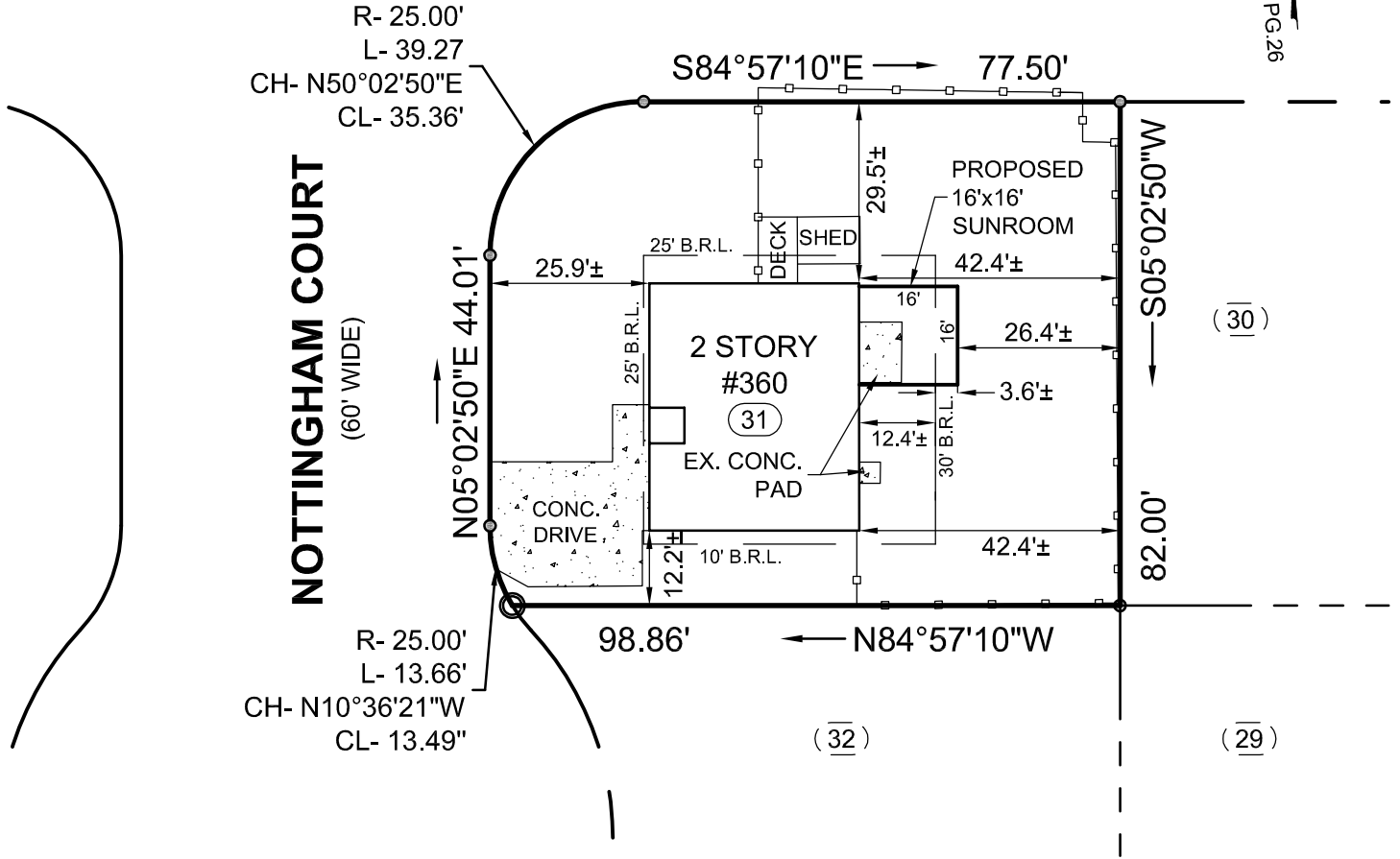
FOUND IRON PIPE
6 FT. WOOD FENCE



P.B. 14, PG. 26

MAYBERRY LANE

(60' WIDE)



NOTES

1. TAX MAP PARCEL NO. ED-05-085.12-04-26.00-000
2. ZONING: R-8
3. SET BACKS: FRONT YARD: 25'; MIN. SIDE YARD: 10', AGG. 20'; REAR YARD: 30'
4. EXISTING COVERAGE (NOT INCLUDING SHED OR DECK): 24.4%
5. PERMITTED COVERAGE: 35%
6. DEED REFERENCE D-258-124, P.B.14, PG.26 - LOT CREATED 1978
7. LOT AREA = 8,255.6± SQ.FT. (0.189± ACRES)
8. DATE OF FIELD SURVEY- 10/5/18
9. PROPERTY MAY BE SUBJECT TO RESTRICTIONS AND EASEMENTS DESCRIBED IN DEED RESTRICTIONS OR AS FOUND IN SUBSEQUENT TITLE SEARCH.
10. THIS PLAN SHALL NOT BE REPRODUCED, TRANSMITTED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER RESPONSIBLE FOR ITS CONTENTS.
11. BUILDING STRUCTURE LOCATING DIMENSIONS SHOWN ARE FOR THE PURPOSE OF CHECKING COMPLIANCE WITH ZONING & DEED RESTRICTIONS ONLY. NO LIABILITY WILL BE ACCEPTED IF THESE DISTANCES ARE USED FOR ANY OTHER PURPOSE.
12. NO TITLE EXAMINATION FURNISHED TO OR PERFORMED BY THE PREPARERS HEREOF.

EXISTING CONDITIONS PLAN

AND

PROPOSED ADDITION

FOR

MAYFAIR II, LOT NO. 31
360 NOTTINGHAM COURT
DOVER, DE

FOR

CLAUDE & GWEN PRITCHETT AND J.E. & ALINE J. WANKOW TRUSTEE

SITUATE IN: CITY OF DOVER, EAST DOVER HUNDRED, KENT COUNTY, STATE OF DELAWARE

CLASS 'B' SURVEY

I HEREBY DECLARE THAT THIS SURVEY PLAN ACCURATELY SHOWS THE BOUNDARY OF THIS PARCEL AS DETERMINED BY EVIDENCE FOUND IN THE FIELD AND WITH DEEDS OF RECORD, THAT IT ACCURATELY DEPICTS ALL IMPROVEMENTS AS LOCATED ON THE PREMISES DESCRIBED, AND THAT ALL IMPROVEMENTS ARE ENTIRELY LOCATED WITHIN LOT LINES, AND THAT THERE ARE NO ENCROACHMENTS UPON THE PREMISES DESCRIBED BY THE IMPROVEMENTS OF ANY ADJOINING PREMISES UNLESS OTHERWISE SHOWN AND/OR CALLED OUT.



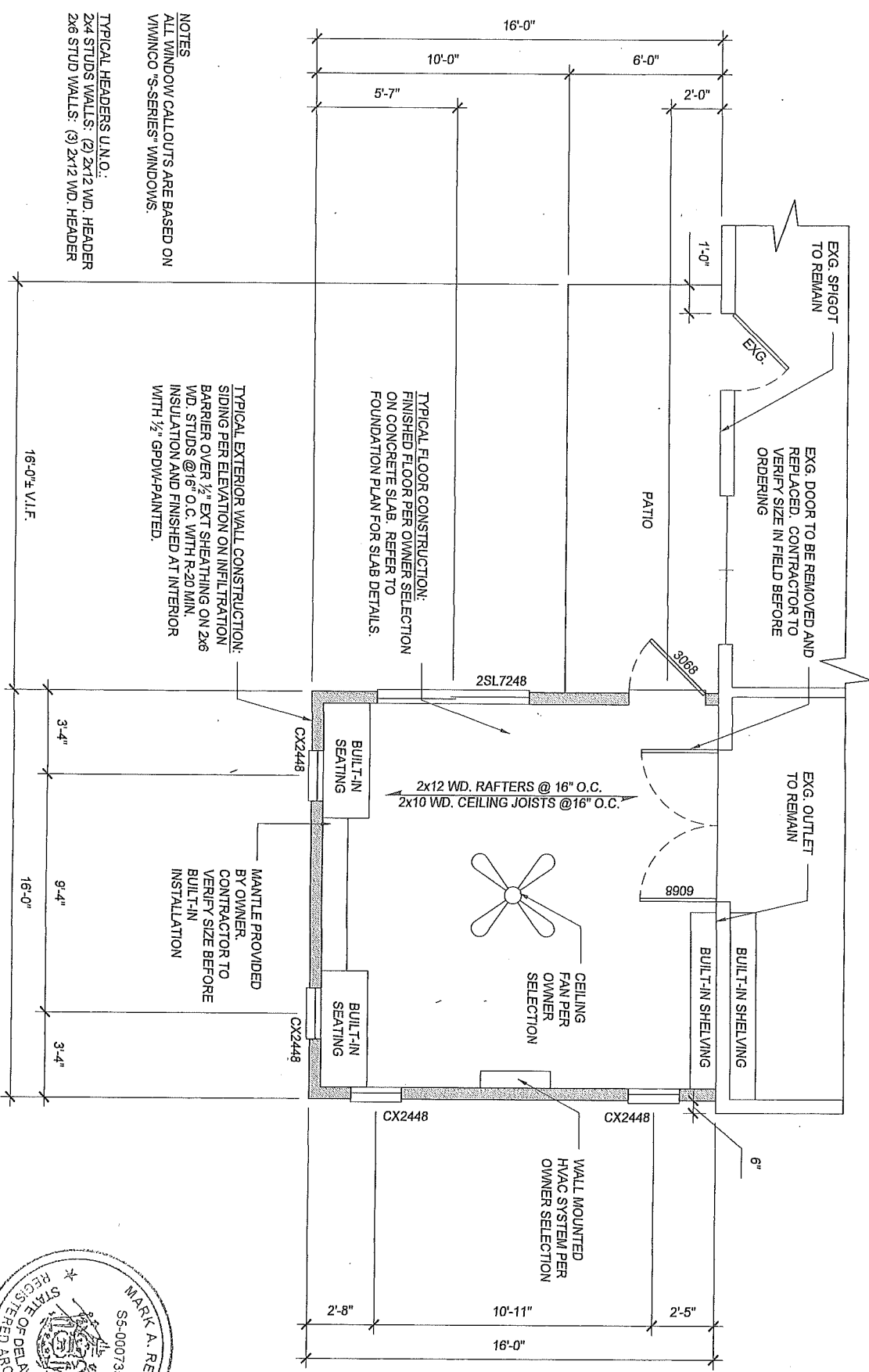
22 Old Rudnick Lane, Suite 2
Dover, DE 19901 302-736-3058

DRAWING NO.	M-4741	SCALE:	1"=30'
DRAWN BY.	S.E.I.	FLD. BK. NO.	MS-57

GREGORY R. SCOTT, P.E.

DATE

1 FLOOR PLAN
1/2" = 1'-0"



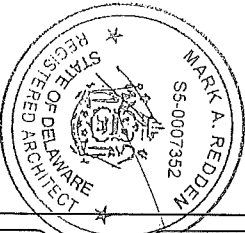
NOTES
ALL WINDOW CALLOUTS ARE BASED ON
VIVINCO "S-SERIES" WINDOWS.

TYPICAL HEADERS U.N.O.:
2x4 STUDS WALLS: (2) 2x12 WD. HEADER
2x6 STUD WALLS: (3) 2x12 WD. HEADER

TYPICAL EXTERIOR WALL CONSTRUCTION:
SIDING PER ELEVATION ON INFILTRATION
BARRIER OVER 1/2" EXT SHEATHING ON 2x6
WD. STUDS @ 16" O.C. WITH R-20 MIN.
INSULATION AND FINISHED AT INTERIOR
WITH 1/2" GPDW-PAINTED.

TYPICAL FLOOR CONSTRUCTION:
FINISHED FLOOR PER OWNER SELECTION
ON CONCRETE SLAB. REFER TO
FOUNDATION PLAN FOR SLAB DETAILS.

MANTLE PROVIDED
BY OWNER.
CONTRACTOR TO
VERIFY SIZE BEFORE
BUILT-IN
INSTALLATION



CONSTRUCTION DRAWING FOR THE NEW:
PRITCHETT SUNROOM ADDITION
389 NOTTINGHAM COURT
DOVER, KENT COUNTY, DELAWARE

PROJECT # 18158 FLOOR PLAN

REV.	DATE

ARCHIOLOGY, LLC
© 2018

ALL DESIGN CONCEPTS, IDEAS AND
PROVISIONS SPECIFIED IN THESE
DRAWINGS ARE THE PROPERTY OF
ARCHIOLOGY, LLC AND ARE NOT TO BE
REPRODUCED OR COPIED IN ANY
MANNER WITHOUT THE WRITTEN
CONSENT OF ARCHIOLOGY,
ARCHITECTURE & DESIGN SERVICES, LLC.
NO CHANGES OR REVISIONS SHALL BE
ALLOWED WITHOUT THE WRITTEN
CONSENT OF ARCHIOLOGY,
ARCHITECTURE & DESIGN SERVICES, LLC.



DATE: 08/03/2018
SHEET # A-1.02



Photo #1
Front (west side) of House



Photo #2
Right (south) Side of House



Photo #3
Left (north) Side of House



Photo #4
Rear Yard Facing South



Photo #5
Rear Yard Facing North



Photo #6
Rear (east side) of House



Photo #7
Rear of Existing Family Room

The lands to the north, south, east, and west are all similarly zoned R-8 properties and have one-family detached residences located on them. An area map is included in Exhibit A.

Code Citations

Article 4, Section 4.1. [One-family residence zones.]

Bulk and parking regulations for one-family residence, R-20, R-15, R-10, R-8 and R-7 zones [are as follows:

TABLE INSET:

		For Dwellings In:				
		R-20	R-15	R-10	R-8	R-7
Minimum required:						
	Lot area (sq. ft.)	20,000	15,000	10,000	8,000	7,000
	Lot width (ft.)	120	100	80	70	50
	Lot depth (ft.)	150	125	110	100	100
	Front yard (ft.)	30	30	25	25	20
	Minimum side yard (ft.)	25	20	15	10	5
	Total both side yards (ft.)	50	40	30	20	10
	Rear yard (ft.)	40	40	30	30	30
	Lot coverage	20%	25%	30%	35%	40%

Exceptional Practical Difficulties Tests

Article 9, Section 2 of the *Zoning Ordinance* dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. In order to grant a variance, the Board must determine that an exceptional practical difficulty exists.

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 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 from the applicant

The applicant has provided background information and responses for the requested variance as it relates to the criteria. (See also Exhibit B)

Background

The house located at 360 Nottingham Court was constructed in 1979 on Lot No. 31 of the Mayfair II subdivision. Lot 31 is one of the shallower lots in the subdivision at 102.5' deep and is 8,256 s.f. (0.189 ac.). Claude and Gwen Pritchett purchased the home in August 1991 and have lived there since. The house is a 2-story home (see attached photographs) and the living space of the home is approximately 1,884 s.f. The house originally had 3 bedrooms; however, one of the bedrooms was converted to an office for an in-home business after one of their children moved out and when they started a transportation business known as D&J Transportation, LLC. The business is permitted and licensed by the City of Dover. They still have one child living at home.

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Based upon the current configuration of the rear of the house, the location of windows and doors, and the required setback of 30' from the rear property line, the maximum size that they could construct the multipurpose sunroom would be approximately 12' x 16'. While the width would be adequate they have determined, based upon their need and proposed uses, that the depth would not suffice for their needs and not provide for a very useable or practical space. They also cannot make the width any larger due the location of windows on the rear of the house (see attached architectural drawing).

An area variance shall be evaluated on the following criteria;

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

Applicant Response:

The property is located in an R8 zone, which is a one-family residence zone. The proposed multi-purpose sunroom is a use that is permitted and desirable in this zone.

Staff Response:

The property is zoned R-8 (One Family Residence Zone) and located in the Mayfair II Subdivision. The subject property is located to the south of Mayberry Lane and to the north of Webbs Lane. The surrounding properties are zoned R-8 and are residential uses.

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

Applicant Response:

The properties in the immediate vicinity of this property are all zoned R8 and have one-family residences located on them. Many of the houses have had additions added onto them over the years. The property directly to the rear of the applicant's property had a screened-in porch added onto the rear of the house.

Staff Response:

As the applicant describes, the character of the property's immediate vicinity are one family residences. The house is of similar size to other houses in the neighborhood, many of which have additions which is not uncommon for the neighborhood.

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

Applicant Response:

Removing or reducing the restriction upon the applicant's property would not affect neighboring properties or their uses. The proposed use is conducive to the existing uses in the neighborhood and the zone in which it is located. It would be in harmony with the neighborhood and other additions added onto other houses. As stated, the house to the rear of the applicant's property has a screened in porch added onto the rear of the house and is relatively close to the rear property line. However, there are trees and a 6' high wooden stockade fence along the rear property line that separate the two properties and provide for a buffer and screening. There is also a 6' high wooden stockade fence to the right or south side of the property that would screen the addition from the adjoining property on that side. The left or north side of the property is located along a street, which also has a 6' high wooden stockade fence. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulation and ordinances and will not represent a radical departure therefrom and will not be injurious to the neighborhood or the adjacent properties.

The construction of the addition will not change the character of the neighborhood and will not be detrimental to the public welfare.

Staff Response:

The removal of the restriction upon the applicant's property would not seriously affect neighboring properties and uses. The property is located on a corner lot in a cul-de-sac. The proposed addition would be located at the rear of the property which is fenced in and would have limited visibility from street view or from adjacent properties. As noted, the property in the rear of the applicant's property has an addition as well. There were also two building permits issued for additions in 2007 and 2009 for the properties located at 347 and 365 Mayberry Lane that are located across the street to the north of the applicant's property.

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:

If the restriction is not removed or reduced the restriction would create an unnecessary hardship or exceptional practical difficulty for the applicant/owner in their effort to make normal improvements to the house. The proposed addition is a permitted use under the provisions of the property; however, the house is constructed relatively close to all setbacks with the exception of the rear yard setback. The two street setbacks significantly impact the ability to add onto the house and there is inadequate remaining space between the house and the Mayberry Lane required setback to construct an addition. To do so would require an even greater variance in the setback in order to construct the addition on that side. Also, there is little to no practical space remaining on the right or southerly side of the house. The double street frontage is peculiar to this particular lot and none of these conditions resulted from the act of the applicant or any predecessor in title. The house is presently approximately 1,884 s.f., which is not a large house. The applicant needs additional space in order to house family and visiting guests as well as operate their existing in-home business, which has been approved and licensed by the City of Dover. The proposed addition is a reasonable use of the property. The strict application of the rear yard setback would not allow them to construct an addition of a useful or practical size. The variance requested would allow them to construct a useful addition and is the minimum variance that will allow them to do so. They cannot expand the width of the proposed sunroom due to the location of existing windows in the rear of the house and, even if they could, the existing available depth of 12' would not provide for a useful or practical multi-purpose room. The granting of the variance is necessary to allow for the reasonable use of the property and to allow for the construction of a practical and useful size multi-purpose sunroom as determined by the architect. The addition of the sunroom would also not exceed the allowable permitted impervious lot coverage of 35 percent.

Staff Response:

Failure to remove the restriction would result in an exceptional practical difficulty in that the *Zoning Ordinance* does not accommodate the size of the space needed for improvements to

the property to meet the conveniences and needs of the applicant. The property is located on a corner lot which would not allow for improvements to be made from either side of the property based on the requirements of the *Zoning Ordinance*. The depth of the property would not accommodate a useful size of the space. The property is located in area where there have been numerous improvements to the existing housing stock.

Variance Recommendations:

Staff recommends approval of the area variance to reduce the 30 feet minimum rear yard setback to an even 25 feet in order to allow for the construction of a 16 foot by 16 foot addition to the rear of the property for the following reasons:

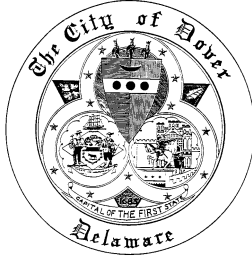
- The applicant has demonstrated that adherence to the requirements of the zoning ordinance would create an exceptional practical difficulty for the owner to make necessary improvements to the property.
- The expansion of the building would help improve and preserve the existing housing stock in the neighborhood as there are several neighboring properties with additions.
- The property is located on a corner lot which has two front yard setback requirements of 25 feet which impacts the ability for the applicant to add onto the property.
- The depth of the property limits the use as a practical space.
- The reduction in the rear yard setback from 30 feet. to 25 feet would not have an affect on the neighboring properties.

Advisory Comments to the Applicant

- If granted, variances become 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.
- Approval of a variance does not constitute a Building Permit. A Building Permit must be received from the City of Dover prior to the start of any construction work.
- If the variance is approved, staff is requesting an as-built survey to be submitted with the building permit to ensure the addition is in compliance with the approved rear yard setback.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Applicant Statement and Responses to Criteria (Applicant)	1
C	Site Plan showing building addition (Applicant)	1 (8.5" x 14" portrait)
D	Architectural Plan (Applicant)	1 (8.5"x11", landscape)
E	Site Area Location (Applicant)	1 (8.5"x11", portrait)
F	Site Photographs (Applicant)	7 (8.5"x11", portrait)



MEMORANDUM

Department of Planning & Inspections
P.O. Box 475
Dover, DE 19903
Phone: (302) 736-7010 Fax (302) 736-4217

DATE: December 12, 2018

TO: Board of Adjustment Members

FROM: Julian Swierczek, Planner I

SUBJECT: Amendment of Board of Adjustment Application
V-18-09 Blue Hen Apartments: Garages at 100, 250, 350, 400 & 550 Shrewsbury Court, Dover

Background for Requested Revision

Blu Hen Apartments, LLC originally applied to the Board of Adjustment on October 10, 2018 for an area variance to permit a reduction in the minimum setback required for an accessory building in a residential zone from 5 feet to 4 feet 10.2 inches. The foundations were laid to comply with the 5 foot setback, but the vinyl siding and corner trim that were added to the wall made the overall structure of five (5) of the new garages (numbered 36, 37, 38, 39, and 41 on Site Plan) to be located within the setback.

However, on December 4, 2018, the Applicant submitted a revision to their October 10th application submission. The amended request is that the setback be further reduced to 4.7 feet or 4 feet 8.4 inches instead of to the original requested reduction to 4.85 feet or 4 feet 10.2 inches.

The applicant explained that the reason for this amended request is due to a new, more detailed survey utilizing GPS gave new information for how far the five (5) garages are actually located from the lot line. See attached letter.

Staff Comments and Recommendation

Staff recommends approval of the revised area variance request to reduce the minimum setback of an accessory building in a residential zone due to the following reasons:

- The decrease in minimum setback requirements continues to be not significant enough to pose any detrimental affect on the neighboring properties. The current minimum setback for accessory buildings in a residential zone is 5 feet. The applicant is proposing reducing this minimum for five of the 11 built garages to the amended request of 4.7 feet (4 feet 8.4 inches). The applicant has stated that they were built so close to the lot line for the purpose of staying as far from underground utilities as possible. While the five garage structures are over the minimum setback, their foundations are not, as they were all built at least 5 feet

from the lot line. An error was made in calculating for the siding and trim that were added at later stages.

- The west of the garages at the property line consists of a landscaped area of grass and shrub & tree plantings. An upright curb separates this area from the parking spaces on the adjacent property. These site elements minimize any differences in setback.
- As the structures are already built, Staff believes it would be an unnecessary hardship for the applicant to not have this variance request approved.

The Board of Adjustment should consider this amended information in its review of the original application for V-18-09 Blue Hen Apartments at 100, 250, 350, 400, & 550 Shrewsbury Court.

Attachments:

1. Letter dated December 4, 2018 with update information
2. Staff Report for Application V-18-09

December 4, 2018

Ms. Dawn Melson-Williams
Mr. Eddie Diaz
City of Dover Department of Planning
P.O. Box 475
Dover, DE 19903

RE: BLUE HEN APARTMENTS – BOARD OF ADJUSTMENT APPLICATION

Dear Dawn/Eddie:

We would like to make a change to our requested variance to Board of Adjustment. We applied in October for a variance from Article 5, Section 1.12 for a variance of 0.15' to allow four garages to remain in their constructed location. We would like to amend the request to a variance of 0.30' with a minimum setback of 4.7'.

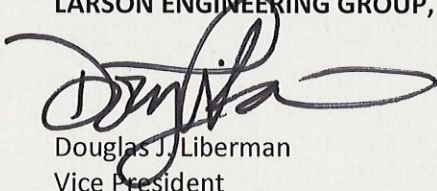
The difference in the request is due to the difference in surveying methods employed by us and Becker Morgan. Becker Morgan used GPS location to determine the garage location where we took direct shots on the garages. The GPS is not as accurate as taking a direct shot on the garage. This resulted in the difference.

The reason for the two surveys is that Becker Morgan is doing the ALTA survey for the owner for the entire property, which is what the financing is based on. We only did the survey work for the Site Plans for Phase 2 of the project.

Please review this request and call me if you have any questions.

Sincerely,

LARSON ENGINEERING GROUP, INC.



Douglas J. Liberman
Vice President



City of Dover

Board of Adjustment

November 21, 2018

V-18-09

Location: 100, 250, 350, 400 & 550 Shrewsbury Ct. (on the east side of Bay Road, behind Blue Hen Corporate Center)

Applicant/Owner: Blue Hen Apartments, LLC

Tax Parcel: ED-05-077.00-01-01.00-000

Application Date: October 10, 2018

Present Zoning: RG-2 (General Residence Zone)

Current Use: Apartments

Reviewed By: Julian Swierczek, Planner I

Variance Type: Area Variance

Variance Requested: To reduce the minimum 5-foot setback required for an accessory building in a residential zone. Applicant has built eleven (11) new parking garages, five (5) of which are only 4.85 feet (4 feet 10.2 inches) from the lot line. This request only pertains to those five garages (numbered as structures 36, 37, 38, 39, and 41 on the Site Plan).

Project Description

The applicant is requesting a variance from *Zoning Ordinance*, Article 5 §1.12 Supplementary Regulations applying to residence zones, to allow for a decrease in the minimum setback requirements for an accessory building in a residential zone.

This current application V-18-09 is proposing to reduce the minimum setback required for an accessory building in a residential zone from 5 feet to 4.85 feet to accommodate the five (5) already built structures located within the setback. The applicant is asking for an area variance because the current owner, Blue Hen Apartments LLC built five (5) of the (11) new accessory garage structures (numbered 36, 37, 38, 39 and 41 on Exhibit C) on the site of the Blue Hen Apartment Complex with setbacks under the required minimum of 5 feet. The foundations of Garages #36, 37, 38, 39, and 41 were built the required 5 feet away from the lot line; however, once the walls were put up and the vinyl siding and corner trim put in place, these (5) structures instead are measuring only 4.85 feet (4 feet 10.2 inches) away from the lot line.

The Applicant has provided a series of Exhibits with their application. A Site Plan, highlighting the five structures (Numbered as 36, 37, 38, 39 and 41) can be found in Exhibit C. A series of photographs showing the garages subject to this Area Variance request (8 pages) is to be found in Exhibit D. The Garages have specific addresses (for 911 response) of 100, 250, 350, 400 & 550 Shrewsbury Court.

Adjacent Land Uses

A Zoning Map Exhibit (Exhibit A) prepared by staff is attached to this Report. It shows the subject property location and surrounding zoning.

The properties to the southeast are zoned IPM (Industrial Park and Manufacturing Zone) and contain the new Chesapeake Utilities Dover Campus. The properties to the southwest are zoned SC-2 (Shopping Center Development) and contain the Blue Hen Corporate Center. The property to the northwest is zoned IO (Institutional and Office Zone) is the site of East Dover Elementary School. Immediately adjacent to the site to the northeast is the Schoolview subdivision of one-family detached dwellings, which are zoned R-8 (One-Family Residence Zone). The subject site itself was developed as apartments in phases from 2007 through 2018.

Code Citations

Zoning Ordinance, Article 5 §1.12 gives the required minimum setback for accessory buildings. Specifically, it states:

Such buildings shall be set back five feet from any lot line and shall not be located less than ten feet from an adjoining principal structure.

Zoning Ordinance, Article 12 defines *Accessory building* as follows:

A building or use clearly incidental or subordinate to, and customarily in connection with, the principal building or use on the same lot.

Zoning Ordinance, Article 12 defines *Setback* as:

The distance between the street line and the setback line.

Zoning Ordinance in turn defines the *setback line* as:

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.

For this property, the five (5) garages are *accessory buildings* because the principal structures are the apartment buildings.

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 below along with a Staff assessment of the application in accordance with the required criteria. The applicant's responses are also provided in Exhibit B.

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

Applicant Response:

"The property is in the RG-2, General Residence zone, which allows a mix of commercial and residential uses."

Staff Response:

Staff notes that while the RG-2 (General Residence) zone allows for a variety of residential uses varying from one-family-residences through to Garden Apartments, commercial uses are slightly limited in scope, being only conditionally allowed after a review and approval by the Planning Commission.

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

Applicant Responses:

“The adjoining property on which side the non-conformity exists is zoned SC-2, Community Shopping Center, and is used as a parking lot. There are landscaped curb islands between the garages and the parking lot, negating the appearance of the non-conformity. The other use near the project is a daycare on an SC-2 zoned property. Both adjoining properties and the subject property ultimately are owned by the same company, but they are listed as separate entities.”

Staff Response:

Staff concurs with the applicant’s description but notes that their description pertains to the properties to the southwest of the site in question, which are the properties nearest to the five (5) garages subject this variance request. The properties there largely contain Blue Hen Corporate Center with the various offices and facilities contained therein, with the parts of the site nearest the subject property containing parking lots. Staff further notes that areas to the southeast are zoned IPM (Industrial Park and Manufacturing Zone); this is where the newly built headquarters of Chesapeake Utilities is located. To the northwest is located Dover East Elementary School which is zoned IO (Institutional and Office Zone). Immediately to the northeast, opposite from the part of the site where the five (5) garages in question are located, are a series of one-family residences in Schoolview Subdivision, which are zoned R-8 (One-family Residence Zone). On the subject site, the Garages are located along the westernmost property line on the apartment complex. They are part of the parking lot serving the Apartment Buildings along Shrewsbury Court.

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

Applicant Response:

“There would not be any effect on the adjoining property. There are landscaped islands between the garages and the parking lot which creates a uniform setting. The non-conformity is 0.15 (1 ¾”) which is not noticeable given the layout of the site and the landscaping. The land directly adjoining the garages is a parking lot so no neighbors are affected by granting the variance.”

Staff Response:

Planning Staff agrees with the assessment of the applicant in that the part of the site where the five (5) garages in question are located, backs up to the parking lot at the rear of the Blue Hen Corporate Center. The residential properties that border the site, do so at the opposite side of the property, to the northeast, meaning that the adjacent residential

properties would not be affected by the minimum setback for an accessory structure being reduced from 5 ft. to 4.85 ft.

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:

“The hardship was caused by the existing underground utilities which affected the original layout of the apartment complex. The rear wall of the garages would need to be removed and reconstructed 0.15’ (1 ¾”) closer to the site which would be an economic hardship on the owners of the property. The property lines also cannot be moves to resolve the issue as the adjoining property is a different zoning district and financing is separate for the different entities.”

Staff Response:

Staff notes that the Applicant sought to build the garages as close to the lot line as possible to avoid any conflict with underground utilities in laying out the overall site. They also note that the only reason they went within the 5 ft setback was an oversight in that they put the foundations where required by Code but accidentally did not account for the siding which would slightly overhang the foundation by 1 ¾ inches. The applicant has stated that, were the variance not be approved, they would incur an economic hardship as they would not be able to utilize the now completed new garages and would have to demolish them to move them by 1 ¾ inches further away from the lot line. Planning Staff would agree with this being an unnecessary hardship.

Variance Recommendations

Staff recommends approval of the variance to allow decreasing the minimum setback for an accessory structure in a residential zone to 4.85 feet, as pertaining specifically to structures 36, 37, 38, 39 and 41 (Addressed as 100, 250, 350, 400, and 550 Shrewsbury Court). Staff recommends approval for reasons as follows:

- The decrease in minimum setback requirements is not significant enough to pose any detrimental affect on the neighboring properties. The current minimum allowed setback in a residential zone is 5 ft. and the applicant is proposing reducing this minimum for 5 of the 11 built garages to only 4.85 ft. (4 ft. 10.2 inches). The applicant has stated that they were built so close to the lot line for the purpose of staying as far from underground utilities as possible. While the five garage structures are over the minimum setback, their foundations are not, as they were all built at least 5 ft. from the lot line. An error was made in calculating for the siding and trim that were added at later stages.
- The west of the garages at the property line consists of a landscaped area of grass and shrub & tree plantings. An upright curb separates this area from the parking spaces on the adjacent property. These site elements minimize any differences in setback.

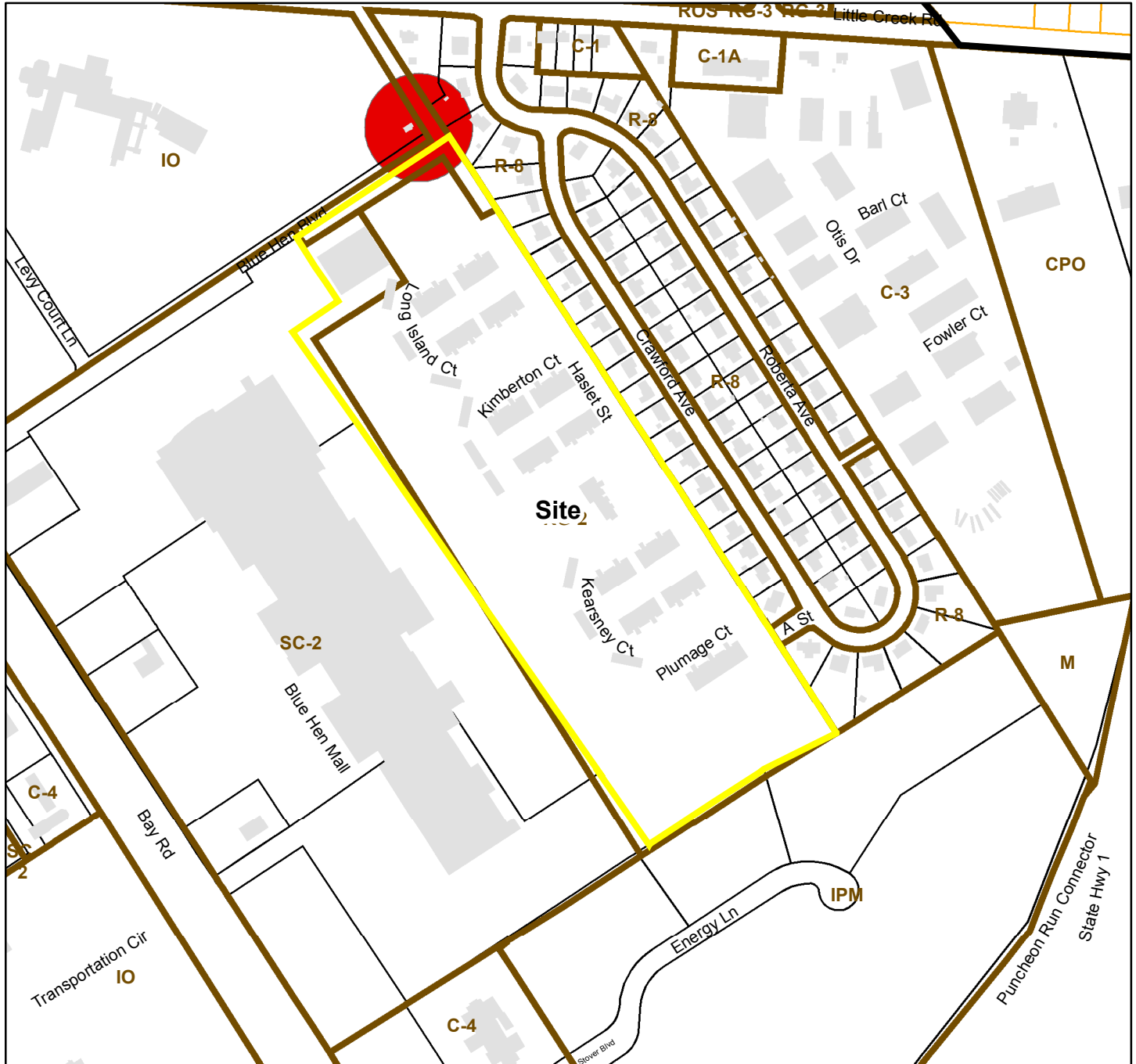
- As the structures are already built, Staff believes it would be an unnecessary hardship for the applicant to not have this variance request approved.

Advisory Comments to the Applicant

- Approval of a variance does not constitute a Building Permit. A Building Permit must be received from the City of Dover prior to the start of any construction work. In this case, documentation of the action on the variance would need to be added to the five Building Permits already issued for the Garages and their compliance evaluated as part of the Final Inspections for the structures.







GUIDE TO ATTACHMENTS

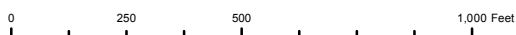
Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Criteria Responses (Applicant)	2
C	Site Plan identifying the (5) garages that are subject of Variance request (Applicant)	1 (36" x 24")
D	Series of photos showing the garages which are the subject of this application	8



Title: Lands of Blue Hen Apartments LLC
 Address: 100, 250, 350, 400 & 550 Shrewsbury Ct,
 Parcel ID: ED-05-077.00-01-01.00-000
 Zoning: RG-2 (General Residence Zone)
 Owner: Blue Hen Apartments LLC
 Date: 11/08/2018

Legend

-  Subject Property
-  Dover Parcels
-  Zoning
-  2012 Buildings
-  Kent County Parcels
-  Dover Boundary



October 10, 2018

Ms. Dawn Melson-Williams
Mr. Eddie Diaz
City of Dover Department of Planning
P.O. Box 475
Dover, DE 19903

RE: BLUE HEN APARTMENTS – BOARD OF ADJUSTMENT APPLICATION

Dear Dawn/Eddie:

We would like to make an application for an area variance request for the above referenced project. We are requesting a variance from Article 5, Section 1.12 of the City of Dover Zoning Ordinance which requires a 5' setback for all accessory structures. Garages 36, 37, 38, 39 and 41 were constructed over the setback line with the minimum setback being 4.85' for a variance of 0.15'.

The project site for Blue Hen Apartments – Phase 2 was constructed on a 150' strip of unused parking lot of the Blue Hen Corporate Center between the existing Blue Hen Apartments site. The land was rezoned to RG-2 to allow construction of the Phase 2 apartments site. A subsequent survey revealed numerous underground electric, phone, fibre optic and water utilities throughout the northern side of the 150' wide property. This would push the proposed buildings closer to the Blue Hen Corporate Center side of the site.

The garages in question have a foundation that was placed on the 5' setback line. Unfortunately, the vinyl siding and corner trim extend beyond the foundation, creating the non-conformity. The maximum non-conformity is a 0.15' encroachment into the setback.

The Area Variance shall be evaluated on the following criteria:

1. The nature of the zone in which the property lies: The property is in the RG-2, General Residence zone, which allows a mix of commercial and residential uses.
2. The character of the immediate vicinity and the contained uses therein: The adjoining property on which side the non-conformity exists is zoned SC-2, Community Shopping Center, and is used as a parking lot. There are landscaped curb islands between the garages and the parking lot, negating the appearance of the non-conformity. The other use near the project is a daycare on an SC-2 zoned property. Both adjoining properties and the subject property ultimately are owned by the same company but they are listed as separate entities.

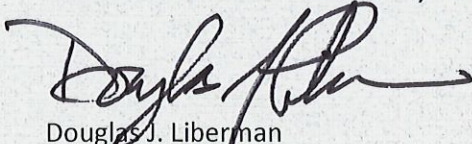
3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses: There would not be any effect on the adjoining property. There are landscaped islands between the garages and the parking lot which creates a uniform setting. The non-conformity is 0.15' (1 $\frac{3}{4}$ "") which is not noticeable given the layout of the site and the landscaping. The land directly adjoining the garages is a parking lot so no neighbors are affected by granting the variance.

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 provision of the zoning ordinance: The hardship was caused by the existing underground utilities which affected the original layout of the apartment complex. The rear wall of the garages would need to be removed and reconstructed 0.15' (1 $\frac{3}{4}$ "") closer to the site which would be an economic hardship on the owners of the property. The property lines also cannot be moved to resolve the issue as the adjoining property is a different zoning district and financing is separate for the different entities.

We appreciate your consideration in this variance request. Please review this information and call me if you have any questions.

Sincerely,

LARSON ENGINEERING GROUP, INC.

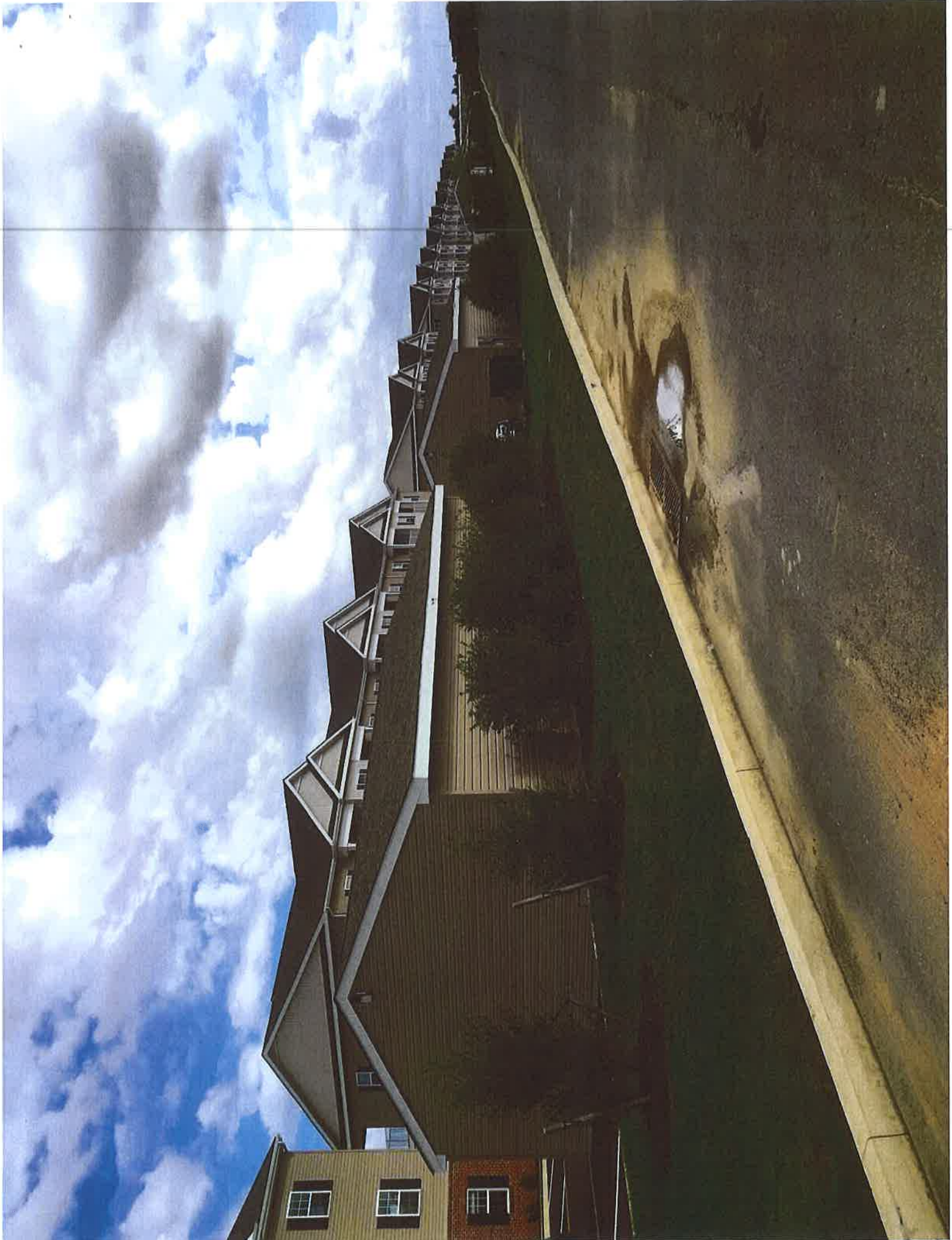


Douglas J. Liberman
Vice President

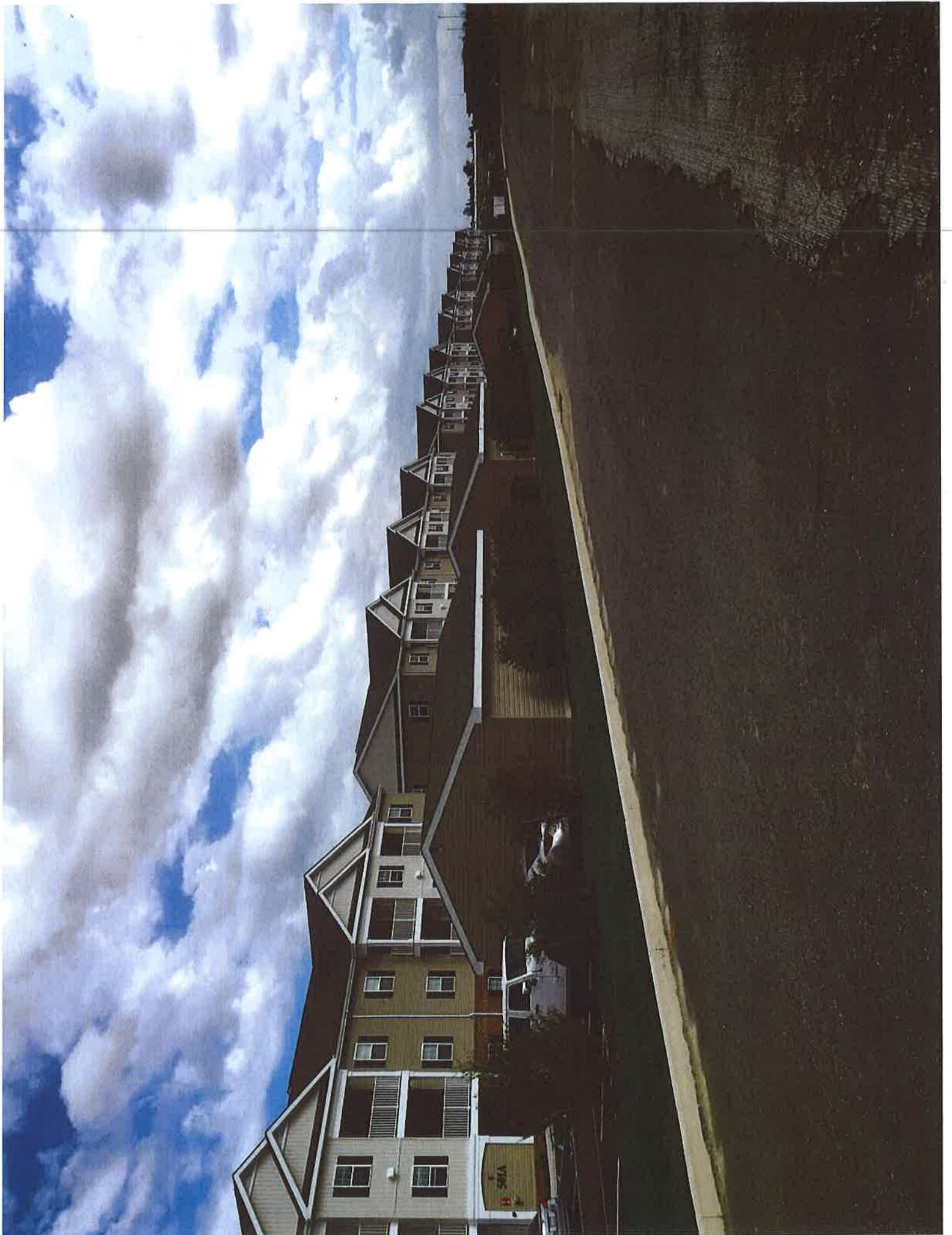
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City of Dover

Board of Adjustment

November 21, 2018

V-18-10

Location: 1240 McKee Road, Dover DE

Applicant: Michael Graham c/o PAM Dover DE IRF LP

Owner: PAM Dover DE IRF LP

Tax Parcel: ED-05-067.00-01-33.00-000

Application Date: October 10, 2018

Present Zoning: IO (Institutional and Office Zone)
COZ-1 (Corridor Overlay Zone)

Present Use: Physical Rehabilitation Hospital (under construction)

Proposed Use: Physical Rehabilitation Hospital

Reviewed By: Eddie Diaz

Variance Type: Area Variance

Variance Requested: To permit a wall sign sized 118.31 SF where the maximum sign area permitted is 32 SF. (For a non-residential use adjacent to a residential use).

Project Description

The applicant is currently constructing a new 43,522 SF physical rehabilitation hospital at 1240 McKee Road in Dover (Site Plan #S-17-05, granted Final Approval on February 5, 2018). The applicant proposes to install a single large wall sign on the front façade of this building, sized 118.31 SF.

The sign cannot be installed in compliance with the *Zoning Ordinance*. The property's frontage on McKee Road (an "Urban Minor Arterial" street) and the proximity of residential uses across the street limit the maximum size for a wall sign on this property to 32 SF. The applicant is requesting a variance from the Supplementary Sign Regulations specified in the *Zoning Ordinance*, Article 5 §4.7 to allow the property to exceed this maximum sign area.

The applicant provided a series of Exhibits together with their application. The variance application renderings, showing the size of the sign and its position on the building, can be found in Exhibit C. Other exhibits provided by the applicant include a zoning map (Exhibit A, originally prepared by Planning Staff), responses to the variance criteria (Exhibit B), letter height calculations (Exhibit D), a report from the United States Sign Council (Exhibit E), and neighbor signatures (Exhibit F).

Planning Staff has provided a series of additional Exhibits to add to the information provided by the applicants. These include Exhibit G, which shows a 31 SF monument sign for the project previously approved on July 20, 2018, Exhibit H, which shows the property's Site Plan, Exhibit I, which shows renderings for a previous iteration of the wall sign, and Exhibit J, which shows the City's sign table. These Exhibits are packaged separately from those submitted by the applicant.

Prior Applications

This project was previously scheduled to be heard by the Board of Adjustment on September 19, 2018 as variance application V-18-07. However, V-18-07 was withdrawn by the applicant before it could be heard at the meeting.

The current application differs from the previous one primarily because the applicants now seek a sign area of 118.31 SF. Previously, they had requested a sign area between 352 SF and 424 SF. This area reduction was achieved in two ways.

First, the applicants reduced the amount of text on the sign. The sign previously read "PAM Rehabilitation Hospital of Dover" in large letters on the first line and "A Post Acute Medical Hospital" in smaller letters on the second (See Exhibit I for the previous design of the sign.) The second line of text was removed entirely for the new application.

Second, the applicants worked with Planning Staff to achieve a more accurate measurement of the sign area according to the definitions given in *Zoning Ordinance*, Article 5 Section 4.3. This change is discussed in more detail in the "Measuring the Size of the Sign" section of this Report, under "Code Citations."

In addition to shrinking the size of the sign, the applicant provided revised responses to the variance criteria with their new application.

Adjacent Land Uses

The property is located on the west side of McKee Road north of College Road. To the north of the property are the headquarters of the First State Model Railroad Club and a Day Care Facility, zoned CPO (Commercial and Professional Office Zone). Across McKee Road to the east are the North Dover Elementary School zoned IO, a stormwater pond, and three one-family dwellings located in an enclave of Kent County. To the south are two more one-family dwellings, zoned CPO and R-8 (One-Family Residence Zone) respectively, as well as the McKee Crossing commercial building, zoned C-2A (Limited Central Commercial Zone). Finally, at the rear of the property to the west is the Emerald Pointe subdivision, consisting of one-family detached dwellings zoned R-8.

All the above-mentioned uses are located either entirely or partially within the Corridor Overlay Zone (COZ-1). The COZ-1 requires enhanced design requirements for landscaping, setbacks, building placement, parking, buffering, and access in order to promote superior urban design.

A map of the property and surrounding area may be found in Exhibit A.

Code Citations

The City of Dover sign regulations found in *Zoning Ordinance*, Article 5 §4 determine the allowable number, type and dimensional characteristics of signage on a property according to:

- The type of use
- Proximity to residential uses
- Classification of roads on which the property has frontage

The proposed hospital is considered a permitted, non-residential use located adjacent to a residential use as specified in Article 5 §4.3 of the *Zoning Ordinance*.

The City of Dover sign regulations distinguish three (3) types of roads for purposes of determining allowable signage. McKee Road is an “Urban Minor Arterial” as defined by Article 5 §4.3.

The entire “Sign Table” from *Zoning Ordinance* Article 5 §4.7 is presented in Exhibit J. The section pertaining to this project is highlighted in the middle section of the table.

This section is what applies to “Nonresidential Uses Adjacent to Residential Districts” as shown in the vertical text on the left, and shows the sign types, maximum number of signs, sign area, sign height, and minimum required setbacks and exclusion zones for signs on properties fronting on “Urban Minor Arterial” streets.

For this property, two wall signs are permitted based on the property’s frontage on McKee Road. The signs granted by McKee Road are limited in size to 32 SF. They are additionally limited to being no more than 15% of the size of the facade they are on. To promote flexibility in signage designs, wall signs may be placed on any façade of the building regardless of what street classification they are permitted under. (See *Zoning Ordinance*, Article 5 §4.4(C)(5).)

The table below compares what is permitted under *Zoning Ordinance* Article 5 §4.7 to the applicant’s proposed signage.

Table 1
Allowed and Requested Signage, 1240 McKee Road

Sign #	Description	Location		Max size	Max height	% of Wall Area	Setback (ROW)	Exclusion Zone
1	Wall Sign	east façade	Permitted	32 SF	N/A	15%	N/A	N/A
			Requested	118.31 SF		0.6%		
2	Monument	McKee frontage	Permitted	32 SF	7 ft.	N/A	5 ft.	20 ft.
			Approved	31 SF	4 ft. 10 in.		10 ft.	>20 ft.

Measuring the Size of the Sign

As previously mentioned, the applicants worked with Planning Staff to achieve a more accurate measurement of the sign area for this new application, according to the definitions given in *Zoning Ordinance* Article 5 Section 4.3. These definitions are as follows:

Sign area: The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

Sign face: The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural thematic or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

Previously, the applicant had arrived at a sign area between 352 SF and 424 SF by measuring the length and width of the “shoe-box pan cabinet” supporting the sign (see page 5 of Exhibit I for construction details of the sign). This 3.5-inch deep box is a structural support intended to contain the power supply for the sign and support the LED-lit channel letters which comprise the actual sign. This box should not be confused with a so-called cabinet sign, which is a box containing both power supply and lighting where the sign is the entire flat front face of the box. For such a sign a straightforward length-by-width measurement to measure the sign area would be appropriate. However, this method is not always appropriate for channel letters.

For channel letters, “the area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face” may be used to find the sign area. Using multiple geometric figures is useful for excluding excess empty space from the sign area without going so far as to exclude necessary empty space that is part of the text. The dimensions used to arrive at a 118.31 SF sign area for the applicant’s sign in particular are shown on page 2 of Exhibit C. Here one can see that 118.31 SF is the sum of a 38” by 48” logo and a 28” by 57’ 10” line of text, minus the empty space made by the difference between the large and small capital letters.

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 a part of the application, the applicant was asked to state how the requested variance relates to the above four criteria. The applicant's new principal responses are provided below, along with a staff assessment of the application in accordance with the required criteria. The applicant's full argument is also provided in Exhibit C.

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

Applicant Response:

“The property lies in the I/O Zone that permits business, professional, and governmental offices; banks; research, design and development laboratories; public and institutional uses; public utility rights of way and structures; day care centers; emergency shelters and transitional housing. Applicant's rehabilitation hospital providing care to patients with serious physical injuries is permitted as an institutional use in this zone.

The property also lies in the Corridor Overlay Zone COZ-1 which requires enhanced design requirements for landscaping, setbacks, building placement, parking, buffering, and access in order to promote superior urban design. Applicant's rehabilitation hospital met the requirements to be granted a designation of Superior Urban Design.

It is worth noting that no other hospital or similarly sized facility lies within an I/O zone and in the Corridor Overlay Zone and, therefore, are not subject to the stringent sign restrictions imposed on the applicant. Bayhealth Hospital is subject to a Unified Comprehensive Sign plan and the Eden Hill facilities are within the Traditional Neighborhood Design Zone where signage is permitted if it complies with approved Pattern Books in which particular sizes of signs are not prescribed. For example in the Eden Hill Farm Professional Office, Medical & Financial District Pattern Book Fifth Edition (2007), there is no minimum or maximum sign size within the District. Pictures of appropriate examples simply depict well proportioned horizontally placed letters across front entryways. (Eden Hill Patter Book p.19) This is exactly what applicant

seeks to do, install properly proportioned horizontally placed wording across its entryway. Applicant suggests that in cases of unique properties, such as hospitals, the proportional size of the sign to the size of the building should be paramount, rather than adhering to a strict rule of permitting only a 32 sq. ft. sign regardless of the size of the building and/or its additional setbacks.”

Staff Response:

The property is in the IO Zone, which permits business, professional, and governmental offices; banks; research, design and development laboratories; public and institutional uses; public utility rights of way and structures; day care centers; emergency shelters and transitional housing. The physical rehabilitation hospital is permitted as an institutional use.

As previously mentioned, the property is also in the Corridor Overlay Zone. The COZ-1 requires enhanced design requirements for landscaping, setbacks, building placement, parking, buffering, and access in order to promote superior urban design.

While the Corridor Overlay Zone does not directly regulate signage, the property’s inclusion in the Corridor Overlay Zone is significant to this application. The applicant has complained about the appearance of a 32 SF sign given the large setback of the building. According to the project’s Site Plan (Exhibit H), the building is set back from the property line 86 feet. This is a deviation from the required front yard setback of the Corridor Overlay Zone, which is typically a minimum of 40 feet and a maximum of 50 feet for nonresidential properties along McKee Road.

In their conditional approval of the project on March 20, 2017, the Planning Commission extended the maximum front yard setback for the hospital to 90 feet, based on the project exhibiting characteristics of “Superior Urban Design.” See *Zoning Ordinance* Article 3, Section 27.61 for information on setbacks in the Corridor Overlay Zone, including the Commission’s ability to extend the setback. See also Article 3, Section 27.2 for the criteria the project met to be granted a designation of Superior Urban Design.

It is noted that the COZ-1’s setback extension provision does not necessarily account for signage requirements. Had the hospital building been built no more than 50 feet from the property line as originally required, it would have been much easier to see a code-complaint sign on the building from the street.

With regard to the applicant’s suggestion that hospitals and other “unique properties” should be regulated on the basis of sign proportionality rather than sign size, Staff disagrees primarily because there is no basis in the sign code for determining what is a unique property or allowing discrimination between types of land uses. The facilities mentioned by the applicant are not granted additional signage due to their medical use but rather because of various special provisions in the code related to the Traditional Neighborhood Design Zone and Unified Comprehensive Sign Plans for campuses, neither of which apply to this single building in an IO Zone. The Bayhealth main campus is zoned IO, the same classification as the applicant’s property.

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

Applicant Response:

“The property is located on 1240 McKee Rd. in a transitional area of town with mixed use. (Exhibit A) The subject site is zoned I/O. Property across the street and facing the front elevation of the building is zoned I/O and is home to the North Dover Elementary school. Property to the northwest of the subject property is a private non-residential use and property adjacent to that is a day care center. Properties immediately adjacent to the southeast and northwest of the subject property are zoned CPO and a short distance down the road at the corner of McKee Rd. and College Rd. is a C-2A parcel with a convenience store, liquor store and other businesses. There is also CPO zoned property across from the front elevation of the building in addition to three (3) small residential parcels that are in a Kent County enclave. (Exhibit A) The residential parcels have various setbacks from the hospital building but appear to be between 200 - 300 feet from the face of the hospital building. The proportional signage, as requested, will be legible from McKee Rd. and will fit into the character of the immediate vicinity and the uses therein.”

Staff Response:

Staff generally concurs with the applicant’s description of the immediate vicinity. It is noted that the North Dover Elementary School shares only about 80 feet of frontage with the subject property, compared with the subject property’s 655 feet of frontage overall; the school’s main frontage is on College Road. The CPO-zoned property across from the elevation, meanwhile, shares about 15 feet of frontage with the subject property. The three residential parcels share the most amount of frontage with the property, having about 295 feet in common. The remaining 265 feet across from the property are taken up by State land containing a stormwater management pond.

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

Applicant Response:

“Delaware Courts have paid particular attention to whether the granting of a requested variance will seriously affect neighboring properties. The question is not whether it simply affects neighboring properties but whether it seriously affects them. Nepa at p. 16.

Instead of installing 2 (32 sq. ft.) signs, the applicant seeks to install 1 (118.31 sq. ft.) sign on the face of the building consisting of illuminated letters that make up the name of the hospital. In keeping with the Zoning Ordinance §4.4 C, the sign is designed as an integral component of the building facade architectural composition and is properly sized so that it is legible from McKee Rd. and proportionally sized to the building. Proportional signage is an important component in the City of Dover Zoning ordinance which restricts signs in "Nonresidential Uses Adjacent to Residential Districts" fronting "Urban Minor Arterial Streets" to no more than 15% of the size of the facade upon which they are placed. The Requested sign (118.31 sq. ft) is only .8% of the face of applicant's 42,140 sq. ft. hospital, a mere fraction of the 15% allowance.

a. The applicant's request will not seriously affect the residences that face the front elevation of the building. The applicant's sign vendor conducted a series of tests and confirmed that the proposed sign variance would produce no lighting or glare effects on property over 150 feet away from the face of the building. All three (3) residences that face the hospital are more than 150 feet away from the face of building so that the signage will have no effect in terms of illuminating their properties. (Exhibit F) The building is set back 86 feet from the property line and the right-of-way is an additional 95 feet wide immediately in front of the building. This extended set back reduces the sign's possible adverse effects in terms of lighting or glare on the three (3) neighboring residences to zero.

More importantly, the owners of the only residences that face the hospital and who would see the sign have no opposition to the variance requested and are supportive of the project. The applicant met with the owners of the three (3) residences, discussed the project, the proposed sign variance, and provided them with a packet of information for their review. (Exhibit F) The three property owners expressed no opposition and in fact confirmed their support for the variance requested by signing the attached form included in Exhibit F.

b. The applicant's request will not seriously affect neighboring properties by setting a precedent for larger signage. The hospital is a unique building for the area and has a greater than average set back from the road. Other businesses are located closer to the roadway and will be competing for different patrons than the hospital. It is unlikely that the other businesses in the area will suffer a competitive disadvantage with a standard sized sign or argue that a precedent for large signage has been set if the applicant's request is granted.

Considering the support of the residential neighbors, the lack of lighting or glare effects on any neighboring properties, and the fact that the proposed sign is proportional to the building and well below the 15% size restriction, the applicant contends that the sign variance will not seriously affect neighboring properties.”

Staff Response:

There are several ways the sign may affect neighboring properties and the area at large that the Board should consider. The first is the sign's direct effect on the neighbors across the street. Staff originally anticipated the size and lighting of the sign could have adverse effects on these neighbors. However, the signatures gathered by the applicant and shown in Exhibit F as well as the testimony above suggest the homeowners instead view the proposed variance favorably. Exhibit F also includes the materials shown to the homeowners. Key to the applicant's argument presented there is that the sign would be far enough away from the neighbors that there would be no glare or excess lighting on their properties. As previously mentioned, the building is set back 86 feet from the property line. The right-of-way width varies but is an additional 95 feet wide immediately in front of the building. Therefore, it does appear that the building's extended setback lessens the sign's possible adverse effects.

The second way the sign may affect neighboring properties is by setting a precedent for neighbors to request their own oversize signage. In this case, Staff does not believe a

precedent would be set. The hospital is the largest building in the immediate area, and there are no other medical uses nearby. The hospital would therefore not need to use signage to compete with other, similar neighboring businesses for customers' attention. The other businesses in the area should also not feel the need to compete with it. While there is no basis in the sign code for singling out a property as unique and therefore deserving of more signage, such factors can still be a consideration for a variance.

The third way the sign may affect the area at large is by being a distraction to passing motorists. Though large signs in general tend to be more distracting than smaller ones, this can be lessened by having the sign be proportional to the building, and by having the sign sit parallel to the road rather than face oncoming motorists. In this case the large sign sits parallel on a proportionally large building, one that motorists will see well before they see the sign itself. By contrast, a small sign difficult to read from the street may prove more of a distraction to motorists, who may spend time trying to figure out what it says rather than focus on the road.

Based on the above factors, including neighbor support, lack of competition, and the sign's proportionality, Staff believes that the sign will have a minimal adverse effect on the neighboring properties and area.

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:

"This is the final factor in the exceptional practical difficulty analysis where the Board weighs the "the potential harm to the neighboring properties" if the variance is granted against "the potential harm to the property owner by denying it." McLaughlin at pp. 1192-1193

a. The requested variance is necessary for motorist legibility. The United States Sign Council (Sign Council) and its research arm, the United States Sign Council Foundation, funded a wide variety of studies to determine, with a degree of certainty, the optimal size of letters and size of signs that are necessary for motorist legibility. In its *Sign Legibility Rules of Thumb* report, the Sign Council outlines how motorists react to signs and provides calculations to determine the appropriate size of letters for legible, and thus safe, motorist viewing. (Exhibit E)

The applicant's sign developer ran the Parallel Letter Height Model Equation #2 from the Rules of Thumb report and determined that the optimal letter height for the subject building would be a 30 inch letter. (Exhibit D) The requested variance is for a 118.31 sq. ft. sign with a 28 inch letter, almost exactly the optimal letter height identified by the calculation. (Exhibit D) If the 32 sq. ft. sign restriction is not removed in this case, the size of the letters will be inadequate for motorist legibility according to the research cited in the Sign Council's Report. Indeed, the artist's renderings show that a 32 sq. ft. sign

becomes more of a distraction on the face of the hospital for passing motorists than a clear marker of its entranceway. (Exhibit C)

Not only does legible signage promote safety but it decreases the frustration and anxiety that patients and visitors can experience by getting lost and having to re-navigate to find the front door. The requested signage will provide the communication necessary to easily direct patrons to the hospital's main entrance.

b. The requested variance enables the Post-Acute Medical (PAM) Corporation to promote its national brand in our local community and should weigh in favor of granting the variance. The Delaware Supreme Court has held that economic considerations, even standing alone, may be a sufficient justification to grant an area variance. Kwik-Check at p. 1291. "The inability to improve one's business or to stay competitive as a result of area limitations, may be a legitimate 'exceptional practical difficulty' that would justify a grant of a variance." Kwik-Check at p. 1291. The Post Acute Medical Corporation operates rehabilitation hospitals throughout the nation and strives to become the most trusted source for post-acute services in each community it serves. Part of becoming that trusted source, is its branding with the names of its hospitals containing the particular community in which it sits, in this instance PAM Rehabilitation Hospital of Dover. The name uniquely identifies the geographic locations of the various PAM hospitals and promotes the reputation of the PAM brand, enhancing its success in a competitive market. While it is true that the approved monument will provide the unique name, having the same name at the entranceway maintains continuity and reinforces the PAM brand.

With the recent construction of similar buildings within a relatively short time in Dover of facilities that provide some overlapping services, it's important for the public to be able to easily distinguish between the facilities. Legible and consistent branding helps to provide that communication to the public.

In summary, the 118.31 sq. ft. requested sign allows the hospital to display its branded name with letters, according to the calculation recommended by the United States Sign Council, that provide near optimum legibility for motorists. Conversely, denying the variance or not removing the restriction of the 32 sq. ft. sign, necessarily results in a sign on the face of the building, perpendicular to motorists, that is too small to incorporate the Sign Council's Best Practices Standards as they relate to legibility. These factors in addition to the 118.31 sq. ft. sign being well proportioned to the subject property and well within the restriction of 15% of the face of the building, weigh heavily in favor of granting the variance. Likewise, the conclusions to be drawn from the third factor in determining whether granting the variance would seriously affect neighboring properties and uses weighs in favor of granting the variance. The analysis of lighting and glare on the only neighboring residential properties that could possibly be affected demonstrates that there is no effect on those properties. More importantly, those neighbors have been apprised of the request for the variance and have no opposition to the applicant's request. As a result, it is reasonable to conclude that the benefits from granting the variance substantially outweigh any detriment, and therefore, the applicant respectfully asks the Board to find that an exceptional practical difficulty exists and to grant its requested variance."

Staff Response:

The calculations performed by the applicant according to the design guidelines in the United States Sign Council Foundation's *Sign Legibility Rules of Thumb* report demonstrate that the requested wall sign needs to be at least 118.31 SF, if not slightly larger, if its message is going to be safely and clearly read by motorists. Two questions arise from this finding. The first is whether the building needs a wall sign visible by motorists at all- whether the applicant faces a practical difficulty if they cannot have such a sign. The second is whether the message itself needs to be long as it is- whether, since the sign should not be shrunk by reducing letter height, it can be shrunk by reducing the number of letters, and whether the applicant would face a practical difficulty by being forced to do so. These questions roughly correspond to the applicant's points "a" and "b" above.

a. Does the building need a wall sign visible by motorists? Two points made by Staff in the previous version of this Report were 1) that the proposed monument sign is likely sufficient to tell oncoming motorists of the hospital's location, based on the success of nearby establishments with similar signage and 2) that 32 SF, while insufficient for motorists, is a good size for pedestrian legibility- placed lower on the building, a 32 SF sign would be useful for guiding people already in the parking lot to the right entrance. These points remain true. However, it is admittedly unusual for a building to have no motorist-oriented signage at all, especially on a road like McKee Road that has relatively heavy traffic.

The Board members may find it useful to review *Zoning Ordinance*, Article 5 Section 4.1, which contains the purpose statement of the City's sign code. To highlight, the purpose statement says in part that "it is the intent of this section to authorize the use of signs which are compatible with their surroundings, appropriate to the activity that displays them, expressive of the identity of individual activities and the community as a whole, and legible in the circumstances in which they are seen." It further says that "signs shall legibly convey their messages without being distracting or unsafe to motorists reading them."

While the purpose statement never explicitly says that signs must be visible to vehicles, only designed so they are not distracting or unsafe if they are, the purpose statement's emphasis on context and compatibility suggests that in an environment like McKee Road, motorist-oriented signage is appropriate. The applicants may face an exceptional practical difficulty if they are unable to size their sign accordingly.

b. Does the sign message need to be long as it is? The text of the sign is "PAM Rehabilitation Hospital of Dover," sized 57 feet 10 inches by 28 inches. There is also a logo, which is 38 inches by 48 inches. The applicant could theoretically meet code by just having their logo on the building, or at least ask for a lesser variance by asking for fewer words. In fact, they have already done this by removing the tagline "A Post Acute Medical Hospital" from the sign. However, every word the applicants removes for the sake of shrinking the sign reduces the effectiveness of their branding. For instance, removing the words "of Dover" would, according to the applicant, reduce the hospital's

connection to the local community and make it harder to build trust with the members of that community. The question thus becomes whether less effective branding is an exceptional practical difficulty for the applicant.

The applicant has requested that the Board consider possible limitations to the competitiveness of their business if the variance is not granted. While there are no similar facilities in the immediate vicinity for the hospital to compete with, it is true that there are other medical facilities in the City at large that could potentially offer overlapping services. The Board members should also consider the purpose statement of the sign code again, which by saying that signs should be “expressive of the identity of individual activities” does support branding on principle.

On the other hand, the Board should consider that a public benefit of the City’s sign code is that it is to a degree anti-competitive. This is suggested in the purpose statement when it says the ordinance “is enacted to avoid the visual clutter that is potentially harmful to [among other things, the] business environment and opportunities.” The sign code provides (except in very specifically defined circumstances) a level playing field that benefits businesses in any given area by giving them roughly equal space in which to express their brand, while ensuring the overall urban environment does not have so much signage the corresponding business environment is harmed. The anti-competitive principle works against the applicant’s argument that they should have more signage to complete their envisioned branding package, because ideally, the applicants would be working to find a way to express their brand within the space available, on level footing with their competitors.

Weighing the non-competitive principle against the degree to which the effectiveness of the applicant’s branding is reduced by the size limitation (again, if they wanted to meet code, they could fit their logo but not a single additional word), it does appear that the applicant may have an exceptional practical difficulty. The applicant could fit all their branding by shrinking the sign letters, but doing this would mean they cannot get the letter height they need to make sure the sign can be safely seen by motorists.

Variance Recommendation

Staff tentatively recommends approval of the variance to permit a 118.31 SF wall sign exceeding the maximum 32 SF size, for the following reasons:

- 1) It does not appear that any adverse effects would be imposed on neighbors by the sign.
- 2) Reading the intent of the sign code, it does appear that motorist-oriented signage would be expected of this site. Further, while the monument sign may be enough motorist-oriented signage on its own, it is common and expected for buildings to have both freestanding and building-mounted signage visible for motorists.
- 3) The setback of the building is such that the applicant must retain the requested letter height of 28 inches for the sign to be seen by motorists. The sign wouldn’t need letters as large if the building met the typical 40 to 50-foot setback of the Corridor Overlay Zone, but the building cannot be moved at this point.
- 4) While the City typically expects businesses to express their branding within the area limits of the sign code, Staff acknowledges that given the constraints in points 2 and 3

above, 32 SF (or even 64 SF if they chose to use two signs) is very little space with which to express the applicant's branding under their building's specific circumstances.

Advisory Comments to the Applicant

- If granted, variances become 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.
- If a variance is granted, a new Sign Permit application will be required for the sign. The previous Sign Permit application submitted was approved for the monument sign only.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
<u>APPLICANT-PROVIDED EXHIBITS</u>		
A	Zoning Exhibit Map	1
B	Applicant's Response to Criteria	4
C	Variance Application Renderings	4
D	Optimal Letter Height Calculation	2
E	United States Sign Council: Sign Legibility Rules of Thumb Report	19
F	Materials Presented to Neighbors and Signature Sheets	5
<u>STAFF-PROVIDED EXHIBITS</u>		
G	Approved Monument Sign from Permit #18-1103 dated 7/9/2018	1
H	Hospital Site Plan	1 (11"x17")
I	Variance Application Renderings for application #V-18-07	5
J	Sign Table from <i>Zoning Ordinance</i> Article 5 Section 4.7	1



Board of Adjustment Application

Application Information

Property Address: 1240 McKee Road, Dover, DE 19904

Tax Parcel Number: ED05-067.00-01-33.000-000

Owner Name: PAM Dover DE IRF, LP

Property Zoning: I/O

Variance (s) Requested: In lieu of installing (2) 32 sq ft permitted signs, Applicant requests a variance to install (1) 118 sq ft sign on the face of its building.

*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.

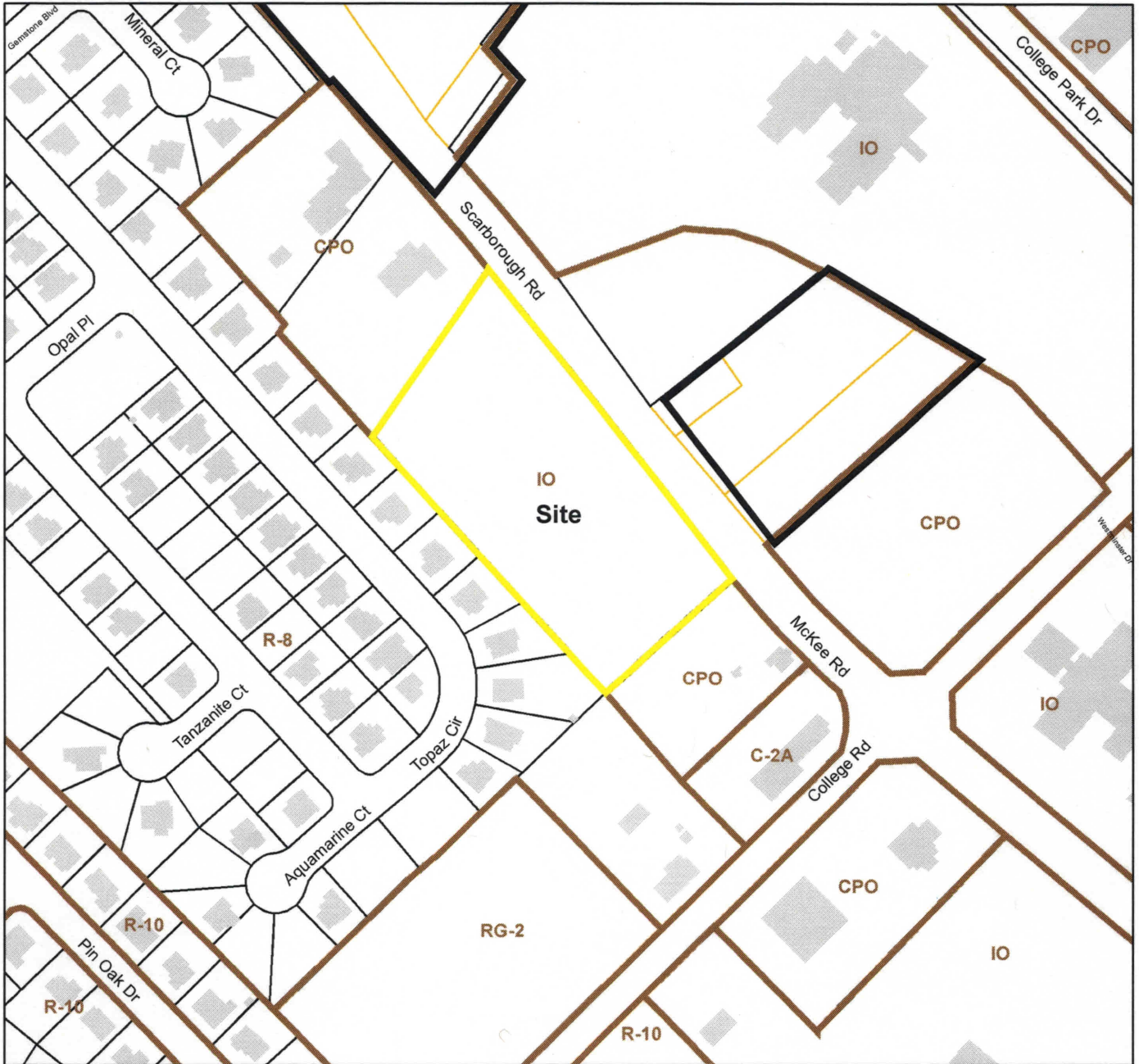
Signature

I Michael Graham 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.

<u>Michael Graham</u>	Principal - PAM DOVER DE IRF LP	10/10/2018
Signature	Title	Date







City of Dover 
Department of Planning & Inspections

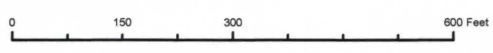
EXHIBIT A



Title: Lands of PAM Dover DE IRF LP
 Address: 1240 McKee Road
 Parcel ID: ED05-067.00-01-33.00-000
 Zoning: IO (Institutional and Office Zone)
 Owner: PAM Dover DE IRF LP
 Date: 9/12/2018

Legend

-  Subject Property
-  Dover Parcels
-  Zoning
-  2012 Buildings
-  Kent County Parcels
-  Dover Boundary



Applicant's Statement Regarding the Area Variance Criteria

Zoning Ordinance Article 9 § 2 sets out the powers and duties of the Board of Adjustment with regard to granting a variance. Section 2.11 provides that a variance shall be considered an "area variance" if it relates to signage regulations. This applicant requests a variance from sign restrictions and therefore requests an area variance.

When considering an area variance, Delaware law directs the Board to apply the less onerous standard of exceptional practical difficulties, rather than the stringent standard of unnecessary hardship which applies to use variances. Nepa v. Board of Adjustment of the City of Lewes (Del. Super., 2018) citing Board of Adjustment of New Castle County v. Kwik-Check Reality, Inc., 389 A.2d 1289 (Del. 1978). In order to apply the exceptional practical difficulties standard, the Board must consider the four factors set out in the City of Dover Board of Adjustment application. When considering those four factors, the Board should weigh the potential harm to the neighboring properties by granting the variance against "the potential harm to the property owner by denying it." McLaughlin v. Board of Adjustment of New Castle County, 984 A.2d 1190, 1192-1193 (Del. 2009).

In other words, granting an area variance is appropriate when the Board considers the four applicable factors and finds that the "benefit to the applicant [is] greater than the harm to the neighboring properties." Nepa at p. 14. In this case, granting one (1) moderately larger wall sign in place of two (2) smaller signs that is both legible from the street and proportional to the size of the building is a benefit to the applicant that is greater than the negligible harm to neighboring properties.

Below are the four factors for the Board's consideration and the applicant's description of how each factor should be applied to its request.

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

The property lies in the I/O Zone that permits business, professional, and governmental offices; banks; research, design and development laboratories; public and institutional uses; public utility rights of way and structures; day care centers; emergency shelters and transitional housing. Applicant's rehabilitation hospital providing care to patients with serious physical injuries is permitted as an institutional use in this zone.

The property also lies in the Corridor Overlay Zone COZ-1 which requires enhanced design requirements for landscaping, setbacks, building placement, parking, buffering, and access in order to promote superior urban design. Applicant's rehabilitation hospital met the requirements to be granted a designation of Superior Urban Design.

It is worth noting that no other hospital or similarly sized facility lies within an I/O zone and in the Corridor Overlay Zone and, therefore, are not subject to the stringent sign restrictions imposed on the applicant. Bayhealth Hospital is subject to a Unified Comprehensive Sign plan and the Eden Hill facilities are within the Traditional Neighborhood Design Zone where signage is permitted if it complies with approved Pattern Books in which particular sizes of signs are not prescribed. For example in the Eden Hill Farm Professional Office, Medical & Financial District Pattern Book Fifth Edition (2007), there is no minimum or maximum sign size within the District. Pictures of appropriate examples simply depict well proportioned horizontally placed letters across front entryways. (Eden Hill Patter Book p.19) This is exactly what applicant seeks to do, install properly proportioned horizontally placed wording across its entryway. Applicant suggests that in cases of unique properties, such as hospitals, the proportional size

of the sign to the size of the building should be paramount, rather than adhering to a strict rule of permitting only a 32 sq. ft. sign regardless of the size of the building and/or its additional setbacks.

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

The property is located on 1240 McKee Rd. In a transitional area of town with mixed use. (Exhibit A) The subject site is zoned I/O. Property across the street and facing the front elevation of the building is zoned I/O and is home to the North Dover Elementary School. Property to the northwest of the subject property is a private non-residential use and property adjacent to that is a day care center. Properties immediately adjacent to the southeast and northwest of the subject property are zoned CPO and a short distance down the road at the corner of McKee Rd. and College Rd. is a C-2A parcel with a convenience store, liquor store and other businesses. There is also CPO zoned property across from the front elevation of the building in addition to three (3) small residential parcels that are in a Kent County enclave. (Exhibit A) The residential parcels have various setbacks from the hospital building but appear to be between 200 - 300 feet from the face of the hospital building. The proportional signage, as requested, will be legible from McKee Rd. and will fit into the character of the immediate vicinity and the uses therein.

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

Delaware Courts have paid particular attention to whether the granting of a requested variance will seriously affect neighboring properties. The question is not whether it simply affects neighboring properties but whether it seriously affects them. Nepa at p. 16.

Instead of installing 2 (32 sq. ft.) signs, the applicant seeks to install 1 (118.31 sq. ft.) sign on the face of the building consisting of illuminated letters that make up the name of the hospital. In keeping with the Zoning Ordinance §4.4 C, the sign is designed as an integral component of the building facade architectural composition and is properly sized so that it is legible from McKee Rd. and proportionally sized to the building. Proportional signage is an important component in the City of Dover Zoning ordinance which restricts signs in "Nonresidential Uses Adjacent to Residential Districts" fronting "Urban Minor Arterial Streets" to no more than 15% of the size of the facade upon which they are placed. The Requested sign (118.31 sq. ft) is only .8% of the face of applicant's 42,140 sq. ft. hospital, a mere fraction of the 15% allowance.

a. The applicant's request will not seriously affect the residences that face the front elevation of the building. The applicant's sign vendor conducted a series of tests and confirmed that the proposed sign variance would produce no lighting or glare effects on property over 150 feet away from the face of the building. All three (3) residences that face the hospital are more than 150 feet away from the face of building so that the signage will have no effect in terms of illuminating their properties. (Exhibit F) The building is set back 86 feet from the property line and the right-of-way is an additional 95 feet wide immediately in front of the building. This extended set back reduces the sign's possible adverse effects in terms of lighting or glare on the three (3) neighboring residences to zero.

More importantly, the owners of the only residences that face the hospital and who would see the sign have no opposition to the variance requested and are supportive of the project. The applicant met with the owners of the three (3) residences, discussed the project, the proposed sign variance, and provided them with a packet of information for their review. (Exhibit F) The three property owners

expressed no opposition and in fact confirmed their support for the variance requested by signing the attached form included in Exhibit F.

b. The applicant's request will not seriously affect neighboring properties by setting a precedent for larger signage. The hospital is a unique building for the area and has a greater than average set back from the road. Other businesses are located closer to the roadway and will be competing for different patrons than the hospital. It is unlikely that the other businesses in the area will suffer a competitive disadvantage with a standard sized sign or argue that a precedent for large signage has been set if the applicant's request is granted.

Considering the support of the residential neighbors, the lack of lighting or glare effects on any neighboring properties, and the fact that the proposed sign is proportional to the building and well below the 15% size restriction, the applicant contends that the sign variance will not seriously affect neighboring properties.

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 use under the provisions of the zoning ordinance.

This is the final factor in the exceptional practical difficulty analysis where the Board weighs the "the potential harm to the neighboring properties" if the variance is granted against "the potential harm to the property owner by denying it." McLaughlin at pp. 1192-1193

a. The requested variance is necessary for motorist legibility. The United States Sign Council (Sign Council) and its research arm, the United States Sign Council Foundation, funded a wide variety of studies to determine, with a degree of certainty, the optimal size of letters and size of signs that are necessary for motorist legibility. In its *Sign Legibility Rules of Thumb* report, the Sign Council outlines how motorists react to signs and provides calculations to determine the appropriate size of letters for legible, and thus safe, motorist viewing. (Exhibit E)

The applicant's sign developer ran the Parallel Letter Height Model Equation #2 from the Rules of Thumb report and determined that the optimal letter height for the subject building would be a 30 inch letter. (Exhibit D) The requested variance is for a 118.31 sq. ft. sign with a 28 inch letter, almost exactly the optimal letter height identified by the calculation. (Exhibit D) If the 32 sq. ft. sign restriction is not removed in this case, the size of the letters will be inadequate for motorist legibility according to the research cited in the Sign Council's Report. Indeed, the artist's renderings show that a 32 sq. ft. sign becomes more of a distraction on the face of the hospital for passing motorists than a clear marker of its entranceway. (Exhibit C)

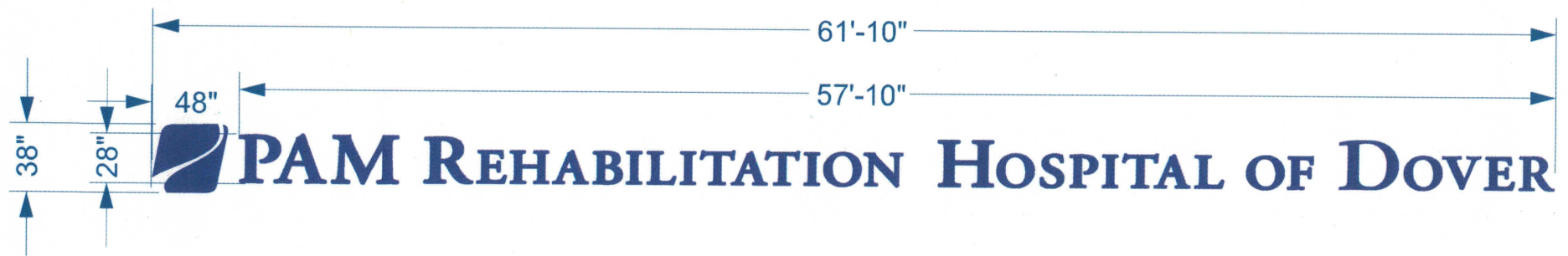
Not only does legible signage promote safety but it decreases the frustration and anxiety that patients and visitors can experience by getting lost and having to re-navigate to find the front door. The requested signage will provide the communication necessary to easily direct patrons to the hospital's main entrance.

b. The requested variance enables the Post Acute Medical (PAM) Corporation to promote its national brand in our local community and should weigh in favor of granting the variance. The Delaware Supreme Court has held that economic considerations, even standing alone, may be a sufficient justification to grant an area variance. Kwik-Check at p. 1291. "The inability to improve one's

business or to stay competitive as a result of area limitations, may be a legitimate 'exceptional practical difficulty' that would justify a grant of a variance." Kwik-Check at p. 1291. The Post Acute Medical Corporation operates rehabilitation hospitals throughout the nation and strives to become the most trusted source for post-acute services in each community it serves. Part of becoming that trusted source, is its branding with the names of its hospitals containing the particular community in which it sits, in this instance PAM Rehabilitation Hospital of Dover. The name uniquely identifies the geographic locations of the various PAM hospitals and promotes the reputation of the PAM brand, enhancing its success in a competitive market. While it is true that the approved monument will provide the unique name, having the same name at the entranceway maintains continuity and reinforces the PAM brand.

With the recent construction of similar buildings within a relatively short time in Dover of facilities that provide some overlapping services, it's important for the public to be able to easily distinguish between the facilities. Legible and consistent branding helps to provide that communication to the public.

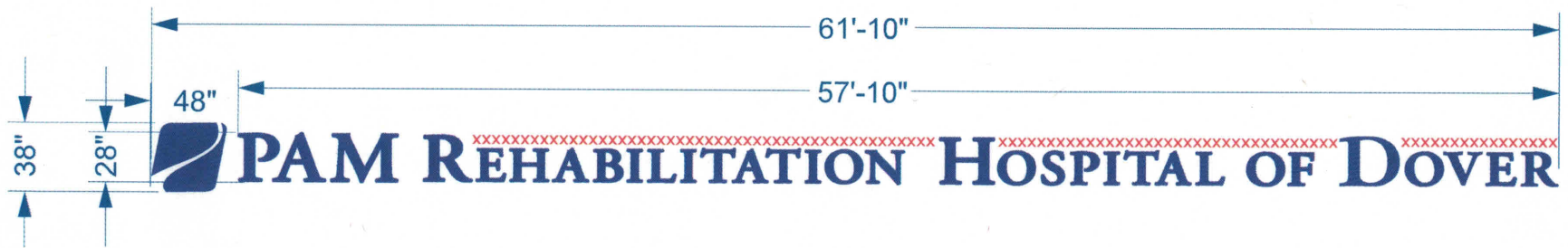
In summary, the 118.31 sq. ft. requested sign allows the hospital to display its branded name with letters, according to the calculation recommended by the United States Sign Council, that provide near optimum legibility for motorists. Conversely, denying the variance or not removing the restriction of the 32 sq. ft. sign, necessarily results in a sign on the face of the building, perpendicular to motorists, that is too small to incorporate the Sign Council's Best Practices Standards as they relate to legibility. These factors in addition to the 118.31 sq. ft. sign being well proportioned to the subject property and well within the restriction of 15% of the face of the building, weigh heavily in favor of granting the variance. Likewise, the conclusions to be drawn from the third factor in determining whether granting the variance would seriously affect neighboring properties and uses weighs in favor of granting the variance. The analysis of lighting and glare on the only neighboring residential properties that could possibly be affected demonstrates that there is no effect on those properties. More importantly, those neighbors have been apprised of the request for the variance and have no opposition to the applicant's request. As a result, it is reasonable to conclude that the benefits from granting the variance substantially outweigh any detriment, and therefore, the applicant respectfully asks the Board to find that an exceptional practical difficulty exists and to grant its requested variance.



Live Sq. Ft. Area of Signage = 118.31 Sq. Ft.

Total Face of Building Sq. Ft. Area = 19,912 Sq. Ft. (29'6"H x 675'W)

% Face of Building Covered By Sign = 0.6% of Face



Sq. Ft. Area of Signage = 118.31 Sq. Ft. (xxxxxxx = Excluded Area)

Total Face of Building Sq. Ft. Area = 19,912 Sq. Ft. (29'6"H x 675'W)

% Face of Building Covered By Sign = 0.6% of Face

Requested Variance – 118.31 Sq. Ft. Sign

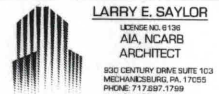


Sq. Ft. Area of Signage = 118.31 Sq. Ft.

Total Face of Building Sq. Ft. Area = 19,912 Sq. Ft. (29'6"H x 675'W)

% Face of Building Covered By Sign = 0.6% of Face

POST ACUTE MEDICAL FACILITY - DOVER



City of Dover – 32 Sq. Ft. Allowable Signage



Sq. Ft. Area of Signage = 32 Sq. Ft.

Total Face of Building Sq. Ft. Area = 19,912 Sq. Ft. (29'6"H x 675'W) %

Face of Building Covered By Sign = 0.16% of Face

POST ACUTE MEDICAL FACILITY - DOVER



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**OPTIMAL LETTER HEIGHT CALCULATION
FOR SIGN LEGIBILITY AT 1240 McKee Rd, Dover, DE**

Using the Parallel Letter Height Model Equation #2 Model below, which applies most closely to the PAM Rehabilitation Hospital of Dover location, we have calculated an optimal legibility letter height of 30 Inches for a 2 Lane Road at 110 Ft. away from the curb. This is very close to the 28"H letter height we are requesting in the variance application. The full study & the various calculation models can be found in the United States Sign Council - Sign Legibility Rules of Thumb Report. (Attached)

Parallel Letter Height Model Equations

Equation #1: $LH = (LN \times 10 + LO) / 5$

Equation #2: $LH = (LN \times 10 + LO) / (LI / 6)$

where:

LH is letter height in inches.

LN is the number of lanes of traffic.

LO is the lateral offset from curb in feet.

LI is the legibility index from Table 1

Table 1. The USSC Standard Legibility Index

ILLUMINATION	LETTER STYLE	LETTER COLOR	Background COLOR	LEGIBILITY INDEX	
				Upper & Lower Case	ALL CAPS
External	Helvetica	Black	White	29	25
External	Helvetica	Yellow	Green	26	22
External	Helvetica	White	Black	26	22
External	Clarendon	Black	White	28	24
External	Clarendon	Yellow	Green	31	26
External	Clarendon	White	Black	24	20
Internal Translucent	Helvetica	Black	White	29	25
Internal Translucent	Helvetica	Yellow	Green	37	31
Internal Translucent	Clarendon	Black	White	31	26
Internal Translucent	Clarendon	Yellow	Green	37	31
Internal Opaque	Helvetica	White	Black	34	29
Internal Opaque	Helvetica	Yellow	Green	37	31
Internal Opaque	Clarendon	White	Black	36	30
Internal Opaque	Clarendon	Yellow	Green	37	28
Neon	Helvetica	Red	Black	29	25
Neon	Helvetica	White	Black	38	32

LN = 2 Lanes

LO = 110 Ft. to West Side Curb / 140 Ft. to Center of Road / 170 Ft to East Side Curb (Distances previously confirmed by Staff)

LI = 26 (Per Table 1 Below – All Caps / Clarendon Internal Translucent / Black on White Background)

OPTIMAL LETTER HEIGHT FORMULA = $((2 \times 10) + 110) / (26 / 6)$

OPTIMAL LETTER HEIGHT FORMULA = $(130) / (4.333)$

OPTIMAL LETTER HEIGHT FORMULA = 30 Inch Letter Height

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Sign
Legibility
Rules
Of
Thumb

UNITED
STATES
SIGN
COUNCIL

SIGN LEGIBILITY

By Andrew Bertucci, United States Sign Council

Since 1996, the United States Sign Council (USSC) and its research arm, the United States Sign Council Foundation (USSCF) have funded an extensive array of studies into the legibility of on-premise signs and the manner in which motorists react to these signs in various roadside environments. Because of these ground breaking studies, it is now possible to determine, with a degree of certainty, the size of letters as well as the size of signs necessary to ensure motorist legibility. Most of this work has been synthesized in the current USSC publication entitled ***USSC Best Practices Standards for On-Premise Signs***, which details methods for ascertaining sign size, legibility, and height for on-premise signs that are directly in view of a motorist approaching the sign. In addition, a study completed in 2006 and entitled ***On-Premise Signs, Determination of Parallel Sign Legibility and Letter Heights*** now provides similar methods for ascertaining legibility factors for signs not directly in view, such as wall mount building signs usually parallel to a motorist's viewpoint.

The USSC Best Practices Standards and the parallel sign study offer relatively detailed analysis of the legibility factors involved with on-premise signs, and certainly should be utilized whenever such analysis is warranted. A number of equally useful generalizations, or time-saving rules-of-thumb based on the studies, however, can be applied to arrive at results which reflect legibility values which can be used as a general average applicable to most conditions. These are detailed below.



On Premise Sign Legibility Simplified Rules Of Thumb

How Motorists React To Signs In The Roadside Environment

Detecting and reading a roadside on-premise sign by a motorist involves a complex series of sequentially occurring events, both mental and physical. They include message detection and processing, intervals of eye and/or head movement alternating between the sign and the road environment, and finally, active maneuvering of the vehicle (such as lane changes, deceleration, and turning into a destination) as required in response to the stimulus provided by the sign.

Complicating this process is the dynamic of the viewing task, itself, involving the detection of a sign through the relatively constricted view provided by the windshield of a rapidly moving vehicle, with the distance between the motorist and the sign quickly diminishing. At 40 miles per hour, for example, the rate at which the viewing distance decreases is 58

feet per second, and at 60 miles per hour, it becomes an impressive 88 feet per second. Further complicating the process is the relative position of the sign to the eye of the motorist, whether directly in his/her field of view (perpendicular orientation), or off to the side and turned essentially parallel to the motorist's field of view (parallel orientation).

Research has now been able to quantify the viewing process and set a viewing time frame or viewing window of opportunity for both types of sign orientation. In the case of signs perpendicular to the motorist, this time frame is measured as Viewer Reaction Time (VRT), or the time frame necessary for a motorist traveling at a specific rate of speed to detect, read, and react to a sign within his/her direct field of vision with an appropriate driving maneuver. The driving maneuver itself can entail a number of mental and physical reactions, usually involving signaling, lane changes, acceleration and/or deceleration, and finally, a turn into the site of the sign.

In the case of signs parallel to the motorist's view, detecting and reading a sign is generally restricted to quick sideways glances as the sign is approached and the angle of view becomes more constricted. Because of this, the VRT involving these signs is, at best, necessarily compromised. Compensation for this reduction in the time frame involved in detecting and reading parallel signs is made through increases in letter height and size designed to facilitate rapid glance legibility. It must be understood however, that the parallel orientation will always present legibility problems, and in many cases, even if the sign is detected and read, sufficient time for a motorist to complete a driving maneuver in response to the sign may not be available.

Perpendicular Signs

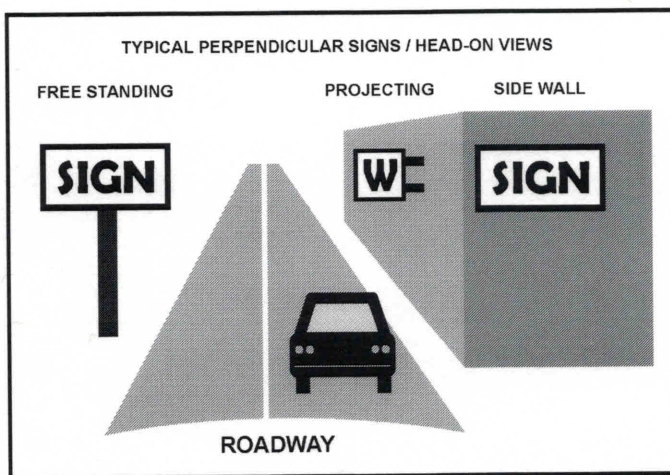


Figure 1. Perpendicular Sign Types

Perpendicular signs include most free standing signs, projecting signs, and, in some cases, flat wall signs placed on building walls that directly face on-coming traffic. (see figure 1). These signs are generally placed close to property lines and fall into the motorist's so-called "cone of vision", which is a view down the road encompassing ten degrees to the right or left of the eye, or twenty degrees total view angle. Signs falling within this cone can usually be viewed comfortably without excessive eye or head movement, and generally can be kept in the motorist's line-of-sight from the time they are first detected until they are passed. (see figure 2, cone of vision).

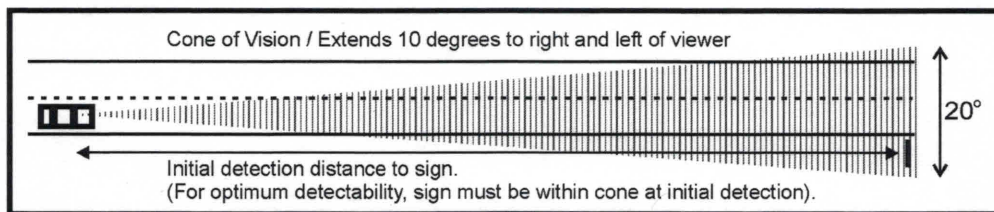


Figure 2. Cone of Vision

Because of this relatively constant view window, perpendicular signs can be designed and sized to provide for viewing time sufficient to allow for adequate detection, reading, and driving maneuvers. The key to providing adequate viewing time is an understanding of Viewer Reaction Time and Viewer Reaction Distance, and how these factors can be computed to provide for adequate letter heights and sign sizes under varied traffic conditions and vehicle speeds.

Viewer Reaction Time / Viewer Reaction Distance

Viewer Reaction Time is simply the time necessary for a motorist to detect, read, and react to the message displayed on an approaching on-premise sign that lies within his or her cone of vision. The USSC Guideline Standards offer precise mathematical procedures for calculating VRT for specific signs with specific copy located in varied locations of increasing traffic complexity and speed.

As a rule-of-thumb for average usage with signs displaying six words of copy (or 30 letters) or less however, VRT for vehicles traveling under 35 miles per hour in simple two to three lane environments can be estimated at eight (8) seconds; for vehicles traveling over 35 miles per hour in more complex four to five lane environments, at ten (10) seconds; and for vehicles traveling over 35 mph in high speed multi-lane environments at eleven to twelve (11-12) seconds.

These values include a maneuvering time of 4 seconds in the simple environment, 5 seconds in the complex environment, and 6 seconds in the high speed multi-lane environment. Although most roadside on-premise sign installations require a motorist to make the driving maneuver before the sign is passed and thus require the full VRT value, occasionally the maneuver can safely be made after the sign location has been passed. Where this is the case, the driving maneuver time of either 4, 5, or 6 seconds should not be included in computing Viewer Reaction Time.

Once VRT is ascertained, Viewer Reaction Distance for a given sign location, or the distance in feet which a vehicle travels during the VRT interval, can be calculated. It is necessary to know this distance because it determines the size of the letters and the size of the sign necessary for legibility to take place over that distance. It represents, in lineal feet, the distance between the motorist and the sign from the moment he or she has first detected it, and it rapidly diminishes as the motorist closes the distance at speed.

It is calculated by first converting travel speed in miles per hour (MPH) to feet per second (FPS) by using the multiplier 1.47, and then multiplying the feet per second by the Viewer Reaction Time. For example, a vehicle traveling at sixty miles per hour covers eighty-eight feet per second ($60 \times 1.47 = 88$). Eighty-eight feet per second times a Viewer Reaction Time of ten seconds equals eight hundred eighty feet (880) of Viewer Reaction Distance. The computation can be expressed also as this equation:

$$VRD = (MPH) (VRT) 1.47$$

Determining Letter Height and Sign Size

The overall legibility of a sign is essentially determined by the height, color, and font characteristics of the letters making up its message component. To this end, the USSC has, through extensive research, developed standard legibility indices for typical letter types and color combinations (see table 1, USSC Standard Legibility Index).

The Legibility Index (LI) is a numerical value representing the distance in feet at which a sign may be read for every inch of capital letter height. For example, a sign with a Legibility Index of 30 means that it should be legible at 30 feet with one inch capital letters, or legible at 300 feet with ten inch capital letters. The USSC Standard Legibility Index also reflects the 15 percent increase in letter height required when all upper case letters (all caps) are used instead of more legible upper and lower case letters with initial caps.

Table 1. The USSC Standard Legibility Index

ILLUMINATION	LETTER STYLE	LETTER COLOR	Background COLOR	LEGIBILITY INDEX	
				Upper & Lower Case	ALL CAPS
External	Helvetica	Black	White	29	25
External	Helvetica	Yellow	Green	26	22
External	Helvetica	White	Black	26	22
External	Clarendon	Black	White	28	24
External	Clarendon	Yellow	Green	31	26
External	Clarendon	White	Black	24	20
Internal Translucent	Helvetica	Black	White	29	25
Internal Translucent	Helvetica	Yellow	Green	37	31
Internal Translucent	Clarendon	Black	White	31	26
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Internal Opaque	Helvetica	Yellow	Green	37	31
Internal Opaque	Clarendon	White	Black	36	30
Internal Opaque	Clarendon	Yellow	Green	37	28
Neon	Helvetica	Red	Black	29	25
Neon	Helvetica	White	Black	38	32

Illumination Variations:

- External light source
- Internal light source with fully translucent background
- Internal light source with translucent letters and opaque background
- Exposed neon tube

To use the Legibility Index table to determine letter height for any given viewing distance, select the combination of font style, illumination, letter color, and background color that most closely approximates those features on the sign being evaluated. Then, divide the viewing distance (Viewer Reaction Distance) in feet by the appropriate Legibility Index value. The

result is the letter height in inches for the initial capital letter in upper and lower case configurations, or for every letter in an all caps configuration. For example, if the Viewer Reaction Distance is 600 feet, and the Legibility Index is 30, the capital letter height would be 20 inches ($600' / 30 = 20''$).

VRD (in feet) / LI = Letter Height (in inches)

The Legibility Index rule-of-thumb...30

In addition to the use of the Legibility Index chart, a simpler, rule-of-thumb Legibility Index of 30 is frequently used as an average to address most legibility requirements. Although generally acceptable, it should be understood that this is an average only, and it may fall short of meeting the legibility needs of any specific sign or environment. The USSC On-Premise Sign Standards provides a much more precise means of establishing this requirement, particularly for complex environments, and should be used whenever such precision is warranted.

Sign Copy Area and Negative Space – Computing Sign Size

The computation of overall sign size is of vital concern to anyone involved in designing or building on-premise signs, since it relates directly to both sign cost as well as to adherence to local building and zoning ordinances. It is for this reason that USSC has devoted so much research resources into developing methods for computing adequate sign sizes for varied environments, and into providing the industry with the means to compute the size of signs necessary to adequately transmit communicative messages to motorists traveling at different rates of speed. The use of the Legibility Index is the vital first step in this process, but there is frequently more involved than just letter height, especially in perpendicular signs involving the use of background panels. Clearly, in these instances, an understanding of how sign copy area and negative space interact to bring about optimum viewer legibility is critical.

In instances in which only letters comprise the total sign, such as channel letters on building walls, however, the computation of total sign size in square feet is relatively simple. In the case of these types of individual letter signs, overall size is frequently considered as the product of the height of the letters times the length of the line of letters. For example, if capital letter height is two feet, and the line of letters measures thirty feet horizontally, sign size would be calculated at sixty square feet ($2 \times 30 = 60$). There is an important exception to this mode of calculation in which only the space actually taken up by the letters themselves in square feet, and not the space between letters, is considered. In these cases, overall size becomes simply the sum of all the individual letter areas, and is generally a fairer method of computation when the letters and or/symbols

are spread out over a large area of building wall. In any event, for individual letter signs, it is essentially the height of the letters which is the prime determinant of overall sign size, and as we observed above, this can be calculated with some precision through use of the Legibility Index.

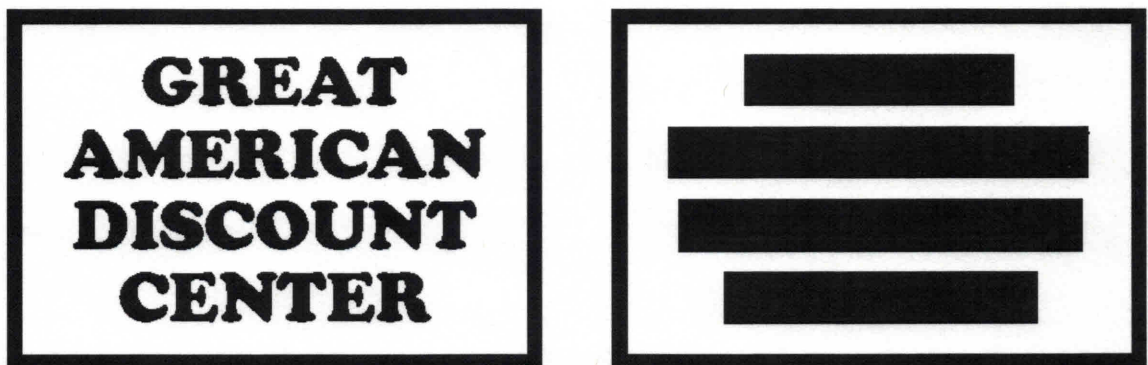
In this context, there is also another useful rule of thumb which can be used to give a working approximation of how much horizontal length a given number of letters would require once the letter height is established by simply multiplying capital letter height by the number of letters. For average fonts, this rule of thumb takes into account the space between letters in a line (usually $1/3$ the width of an individual letter and referenced as letterspace) and can give a surprisingly close determination of the actual length of the line of letters.

In the case of signs utilizing background areas, however, computation of the amount of space occupied by the lettering, also called copy area, is only the first step in computing overall sign size. Of equal importance in signs of this type is the amount of negative space surrounding the letters or copy area. It is this negative space which provides the background for the letters, makes legibility possible, and which must be accounted for in any computation to determine overall sign size.

Copy Area

The copy area of a sign is that portion of the sign face encompassing the lettering and the space between the letters (letterspace), as well as any symbols, illustrations, or other graphic elements. It is a critical component of effective sign design because it establishes the relationship between the message and the negative space necessary to provide the sign with reasonable legibility over distance.

Figure 3. Copy Area

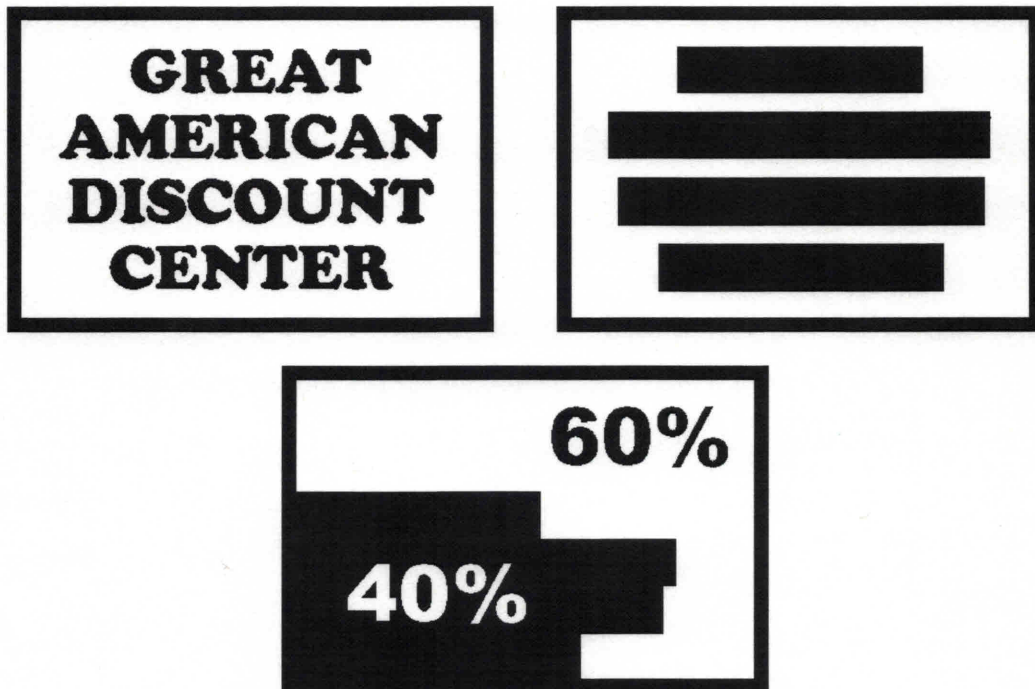


The illustration on the left depicts a typical on-premise sign face; while the one on the right, with black rectangles covering the copy area, affords a visual of the message layout

Negative Space

Negative space is the open space surrounding the copy area of a sign. It is essential to legibility, particularly in signs in which the copy is displayed within a background panel. Negative space ideally should not be less than 60 percent of the sign or background area. This requirement for a 40/60 relationship between the copy area and negative space is the minimum USSC standard. It is intended only to establish a measurable baseline for the negative space component of a sign, such that a reasonable expectation of legibility will exist.

Figure 4. Relationship Between Copy Area And Negative Space



The bottom sign panel illustrates how the aggregate copy area comprises 40 percent of the total sign panel area, with the remaining 60 percent forming the negative space area.

DETERMINING SIGN SIZE – Calculation Methodology

The size of a sign is determined by the size and length of the message and the time required to read and understand it. It can be calculated once the numerical values of the five size determinants –Viewer Reaction Time, Viewer Reaction Distance, Letter Height, Copy Area, and Negative Space – have been established.

The step-by-step process to determine sign size, which is explained below, is useful not only as a calculation method, but also as a means of understanding the elements involved in the calculation.

Area of Sign / Computation Process:

1. Determine speed of travel (MPH) in feet per second (FPS): $(\text{MPH} \times 1.47)$.
2. Determine Viewer Reaction Time (VRT).
3. Determine Viewer Reaction Distance (VRT x FPS).
4. Determine Letter Height in inches by reference to the Legibility Index (LI): (VRD/LI) .
5. Determine Single Letter Area in square inches (square the letter height to obtain area occupied by single letter and its adjoining letterspace).
6. Determine Single Letter Area in square feet: $\text{Single Letter Area in square inches}/144$.
7. Determine Copy Area (Single Letter Area in square feet x total number of letters plus area of any symbols in square feet).
8. Determine Negative Space Area at 60% of Sign Area (Copy Area x 1.5).
9. Add Copy Area to Negative Space Area.
10. Result is Area of Sign in square feet.

Computation Process / Calculation Example



Figure 5. Calculation Example Sign

Location: Complex Driving Environment

Posted Traffic Speed of 40 MPH

Sign Background: White

Sign Copy: 23 Letters, Upper & Lower Case

Clarendon Style, Black

Internally Illuminated, Translucent Face

1. Determine speed of travel in feet per second; $40 \text{ MPH} \times 1.47 = 59 \text{ FPS}$
2. Determine Viewer Reaction Time – Complex Environment
 - Detection and Message Scan..... 5 seconds
 - Maneuver.....5 seconds
 - Total Viewer Reaction Time = 10 seconds VRT
3. Determine Viewer Reaction Distance; $59 \text{ (FPS)} \times 10 \text{ (VRT)} = 590 \text{ feet}$
4. Determine Letter Height in inches - Refer to Legibility Index, Table 1
 - Black Clarendon letters on White background = Index of 31
 - $590 \text{ (VRD)} / 31 \text{ (LI)} = 19 \text{ inch letter height}$
5. Determine Single Letter Area in square inches
 - $19 \times 19 = 361 \text{ square inches, single letter area}$
6. Determine Single Letter Area in square feet
 - $361 / 144 = 2.5 \text{ square feet, single letter area}$
7. Determine Copy Area; single letter area (sq. ft.) x number of letters
 - $2.5 \times 23 = 57.5 \text{ square feet, copy area}$
8. Determine Negative Space @ 60% of sign area
 - $57.5 \times 1.5 = 86.25 \text{ square feet, negative space}$
9. Add Copy Area to Negative Space
 - $57.5 + 86.25 = 143.75 \text{ square feet}$
10. Result is Area of Sign, 144 square feet

Area of Sign – Equation / Specific Usage

In addition to the computation method above, the USSC has developed an algebraic equation to determine the Area (A_{sign}) for signs containing letters only, which will provide the same result but will simplify the process. The equation allows for insertion of all of the size determinants, except for Negative Space, which is fixed at the standard 40/60 ratios. (Note: If numbers are rounded off in the computation process, a very slight difference in result may occur between the computation process and the equation).

$$A_{\text{sign}} = \frac{3n}{80} \left[\frac{(\text{VRT}) (\text{MPH})}{\text{LI}} \right]^2$$

Fixed Value:

40/60 ratio, letters/negative space

Variable Values:

Number of Letters (n)

Viewer Reaction Time (VRT)

Miles Per Hour (MPH)

Legibility Index (LI)

Here's how to work the equation:

Start with the first portion of the equation which is three times the number of letters divided by 80. Three times 23 letters is 69; when divided by 80 the result is .8625. Keep this number ready for later use. Compute the second part of the equation in brackets by multiplying VRT (Viewer Reaction Time), which is 10 by the MPH (miles per hour), which is 40. The multiplication product is 400. Divide 400 by the LI (Legibility Index), which is 31, and the result is 12.90. Square the 12.90 by multiplying it by itself (12.90 x 12.90) for a product of 166. Finally, multiply the 166 by the .8625 obtained from the first part of the equation, and the resulting square footage is 143.

Area of Sign – Equation / Broad Usage

To allow for a broader scientific evaluation of sign size and satisfy the minimal legibility requirements across a full range of reaction times and speed zones, USSC has also developed a second more simplified equation shown below. This formula fixes the average sign size determinants, leaving only Viewer Reaction Time (VRT) and the speed of travel (MPH) as the sole variables. It can be used effectively as a broad rule-of-thumb to ascertain the general size of signs necessary to adequately and safely convey roadside information to motorists traveling at a given rate of speed as well as to establish size parameters for signs across an entire community and/or road system. Table 2 below provides a handy look-up reference of the use of the equation.

$$A_{\text{sign}} = \frac{[(\text{VRT})(\text{MPH})]^2}{800}$$

Fixed Values:

30 Letters

Legibility Index (LI) of 30

40/60 ratio, letters/negative space

Variable Values:

Viewer Reaction Time (VRT)

Miles Per Hour (MPH)

Here's how to work the equation,

assuming Viewer Reaction Time of 10 seconds and speed at 50 miles per hour:

Compute the values in the brackets by multiplying the VRT (Viewer Reaction Time) of 10 seconds by the MPH (miles per Hour), which is 50. The multiplication product is 500. Square the 500 by multiplying it by itself (500 x 500) for a product of 250,000. Divide 250,000 by 800 for the resulting square footage of 312.

Table 2. Freestanding Sign Sizes

Freestanding Sign Size in Square Feet

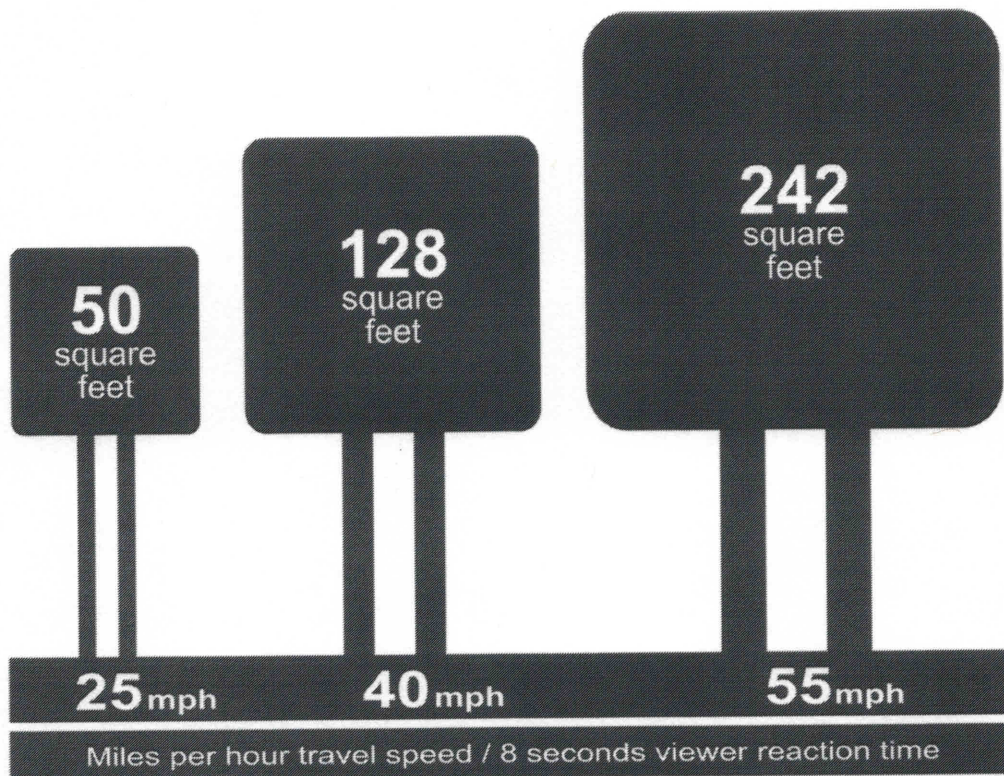
Sign Size (Square Feet) = $[(VRT)(MPH)]^2 / 800$

VRT = Viewer Reaction Time MPH = Miles Per Hour

VRT varies with roadside complexity:

simple or 2 lane = 8 seconds / complex or 4 lane = 10 seconds / multi lane = 11 seconds

MPH	Road Complexity	VRT	Sign Size
25	simple / 2 lane	8	50
25	complex / 4 lane	10	78
30	simple / 2 lane	8	72
30	complex / 4 lane	10	112
35	simple / 2 lane	8	98
35	complex / 4 lane	10	153
40	simple / 2 lane	8	128
40	complex / 4 lane	10	200
45	simple / 2 lane	8	162
45	complex / 4 lane	10	253
50	simple / 2 lane	8	200
50	complex / 4 lane	10	312
55	complex / 4 lane	10	378
60	complex / 4 lane	10	450
65	multi lane	11	639
70	multi lane	11	741
75	multi lane	11	850



Average sign size related to speed of travel and reaction time

Illustration from *Street Graphics and the Law*,
American Planning Association, 2004

Parallel Signs

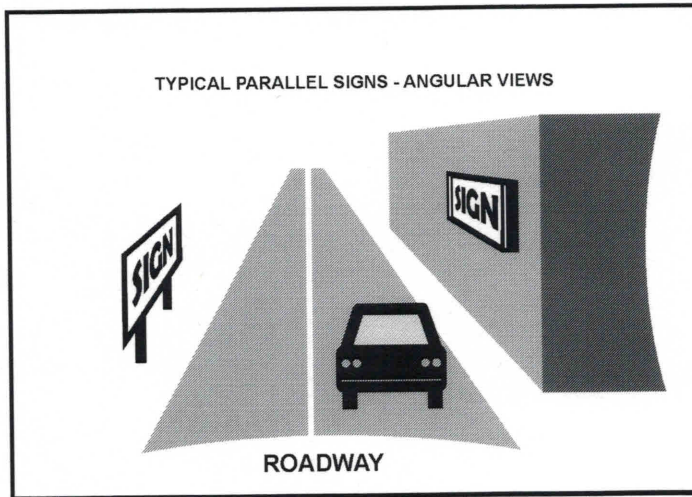


Figure 6. Parallel Sign Types

Everyday experience teaches us that parallel signs are more difficult to read than perpendicular signs simply because their orientation to the eye of any observer is at an acute angle. Now USSC research has corroborated this subjective impression with scientific evidence, and has made it possible to construct a mathematical model and attendant equations to account for the size increases necessary to allow parallel oriented signs to achieve at least some measure of the legibility quotient of perpendicular signs in a motorist oriented environment.

Parallel signs are harder to read because their orientation, or tilt, with respect to the driver makes it impossible to see the sign face at certain distances and offsets. When the driver can see the sign face, the content is often foreshortened and distorted. The driver must get close to the sign in order to increase the viewing angle to the point where the sign becomes legible. However, as drivers approach the sign, the time they have to read it gets shorter, while the sign moves further into their peripheral vision.

This condition places parallel signs at a threefold disadvantage relative to perpendicular signs. First, they are inherently more difficult to read because of the foreshortening of the message content caused by the angle of view. Second, because they become legible only after the angle of view exceeds 30 degrees, the time frame during which legibility can take place is compressed, and third, because they are usually placed back from the roadside well outside a driver's cone of vision, they are viewed by drivers only during short sideway glance durations, usually measured in fractions of seconds.

In many cases, their orientation causes not only severely compromised legibility compared to perpendicular signs, but results in the sign not being seen at all. In the USSC study, *Real World On-Premise Sign Visibility*, in which people were asked to drive through typical suburban shopping areas and locate specific signs, perpendicular signs were almost never missed while the subjects drove past 30 percent of the parallel signs, even though the parallel signs were two and three times larger than the perpendicular signs and the drivers were actively looking for them.

Parallel signs, therefore, must be read using a series of very quick glances at large visual angles during small windows of opportunity. Because of this, letter heights developed for perpendicular signs, where drivers have more time and can take longer straight ahead glances, cannot provide for adequate parallel sign legibility.

As we have noted in the case of perpendicular signs, the minimum distance at which a sign must become legible is a function of the time it takes to read the sign and the decisions and maneuvers required to comply with the sign. This is the Viewer Reaction time (VRT), which when combined with the speed of travel, becomes the Viewer Reaction Distance (VRD). Given the VRD, a perpendicular sign's letter height can be calculated using the Legibility Index.

The legibility of parallel signs, however, depends not on a driver's line of sight to a sign down the road, but rather when the sign becomes visible to the driver at a sight angle sufficient to allow at least some glance legibility to take place. A significant amount of research has now determined that this angle should be no less than 30 degrees to the driver's line of sight, and it is the visual restriction imposed by this angle, along with the number of lanes of travel, and the sign's offset from the curb, which determines the Maximum Available Legibility Distance, (or MALD) for a given parallel sign

While traversing this distance, however, a driver cannot be expected to register much more than a few quick glances at the sign without adversely affecting his/her view of the road. Thus it is essential to optimize reading speed for parallel signs in order to minimize the duration and frequency of glances that drivers must make to read the sign. Research has shown that reading speed increases to its maximum as letters are enlarged by a factor of three, and then tends to level off; and to ensure adequate letter height for parallel signs, a multiplier of three is used in the mathematical model to determine the letter heights and the legibility index for parallel signs.

Using this multiplier of three as a benchmark or rule of thumb, the Legibility Index for parallel signs falls to 10, instead of the Legibility Index of 30 we have shown as a rule of thumb for perpendicular signs. Thus a

parallel sign with a MALD of 500 feet, for example, would require a capital letter size of 50" (500/10=50). Conversely, a perpendicular sign at the same location, but directly viewable 500 feet down the road, would require a capital letter size of 17" (500/30=17)

Equations and Lookup Table

The following equations can be used to determine appropriate letter heights for parallel mounted signs given the number of lanes of travel and the lateral offset of the sign from the curb. Equation #1 uses an average LI of 10, while Equation #2 allows users to input the LI that most closely matches their sign conditions from the USSC Legibility Index table (Table 1) and applies the three times threshold constant to that LI. A parallel sign letter height lookup table is also provided for typical roadway cross-sections and lateral sign offsets (Table 3).

***When using the equations or the lookup table
always use the maximum number of lanes on the
primary target road.***

Parallel Letter Height Model Equations

$$\text{Equation \#1: } LH = (LN \times 10 + LO) / 5$$

$$\text{Equation \#2: } LH = (LN \times 10 + LO) / (LI / 6)$$

where:

LH is letter height in inches.

LN is the number of lanes of traffic.

LO is the lateral offset from curb in feet.

LI is the legibility index from Table 1

Examples of how to work the equations

2-Lane Roadway

Lateral offset is 37 feet from the curb.

User does not know the letter style.

Equation #1: $LH = (LN \times 10 + LO) / 5$

$$LH = (2 \times 10 + 37) / 5$$

$$LH = 57 / 5$$

$$LH = 11.4 \text{ inches}$$

Same scenario, but user knows the sign is: Externally Illuminated,
Helvetica, all Caps, Light Letters on Dark Background
(USSC LI = 22 ft/in)

Equation #2: $LH = (LN \times 10 + LO) / (LI / 6)$

$$LH = (2 \times 10 + 37) / (22 / 6)$$

$$LH = 57 / 3.67$$

$$LH = 15.5 \text{ inches}$$

Table 3. Parallel sign letter height lookup table.

Offset from Curb (ft)	Letter Height in Inches				
	Number of Lanes				
	1	2	3	4	5
10	4	6	8	10	12
20	6	8	10	12	14
40	10	12	14	16	18
60	14	16	18	20	22
80	18	20	22	24	26
100	22	24	26	28	30
125	27	29	31	33	35
150	32	34	36	38	40
175	37	39	41	43	45
200	42	44	46	48	50
225	47	49	51	53	55
250	52	54	56	58	60
275	57	59	61	63	65
300	62	64	66	68	70
325	67	69	71	73	75
350	72	74	76	78	80
375	77	79	81	83	85
400	82	84	86	88	90



Project Address:
1240 McKee Road
Dover, DE

Developer:
MedCore Partners &
TNRG Development

Operator:
Post-Acute Medical

Post-Acute Medical Rehabilitation Hospital Dover, Delaware

October 9, 2018

Dear Property Owners,

As you know the development teams of MedCore Partners & TNRG Development submitted an application to the City of Dover, seeking a variance for the allowable size of exterior signage for the Post-Acute Medical Rehabilitation Hospital in August. You were kind enough to sign a form indicating that you had no objection to the variance requested.

The purpose of this correspondence is to inform you that PAM Rehabilitation Hospital withdrew that previous request and plans to submit a new request, seeking a variance for a smaller wall sign than previously requested. PAM's request for the variance is predicated on the need for patients and visitors to easily identify the rehabilitation hospital from McKee Road. The attached renderings provide an accurate representation of the size and scope of the requested sign design.

Our sign vendor conducted a series of tests and confirmed that our proposed sign would have ZERO lighting or glare effects on anything over 150 feet away from the face of the building. Thus, your property would not be affected.

Once again, we are asking for your support to help us achieve our request for a variance for signage so that our project can move forward as designed. Your signature on the attached page will signify your support.

This matter will be on the agenda when the City of Dover hosts a public hearing for all residents and community members on November 21, 2018 at City Hall. The hearing will be held at 9:00 a.m. in the City Council Chambers at City Hall, 15 Lookerman Plaza, Dover, DE. Your support and influence in the approval of our application for the variance is very much appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Graham".

Michael Graham - Principal
MedCore Partners

Requested Variance – 118.31 Sq. Ft. Sign



Sq. Ft. Area of Signage = 118.31 Sq. Ft.

Total Face of Building Sq. Ft. Area = 19,912 Sq. Ft. (29'6"H x 675'W)

% Face of Building Covered By Sign = 0.6% of Face

POST ACUTE MEDICAL FACILITY - DOVER



LARRY E. SAYLOR

LICENSE NO. 61308
AIA, NCARB
ARCHITECT

830 CENTURY DRIVE SUITE 103
MECHANESBURG, PA, 17055
PHONE: 717.897.1700
WWW.LESAYLORARCHITECT.COM

City of Dover – 32 Sq. Ft. Allowable Signage



Sq. Ft. Area of Signage = 32 Sq. Ft.

Total Face of Building Sq. Ft. Area = 19,912 Sq. Ft. (29'6"H x 675'W) %

Face of Building Covered By Sign = 0.16% of Face

POST ACUTE MEDICAL FACILITY - DOVER



LARRY E. SAYLOR

LICENSED ARCHITECT

AIA, NCARB

ARCHITECT

830 CENTURY DRIVE SUITE 103
MECHANICSBURG, PA 17055

PHONE: 717.287.1799

www.larryesaylor.com



0 Foot Candles At 150 Ft.

8 Foot Candles at 100 Ft.

22 Foot Candles at 50 Ft.

46 Foot Candles at Sign Location

PROPOSED 2-STORY
BUILDING
42,000 S.F.

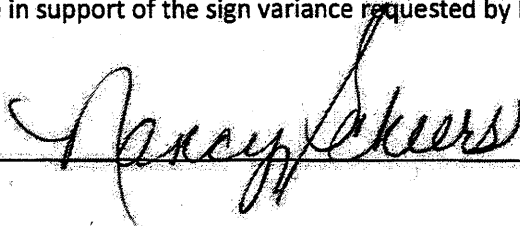
PAM REHABILITATION HOSPITAL OF DOVER

A Post Acute Medical Hospital

Dover, Delaware

Please accept my signature in support of the sign variance requested by PAM Rehabilitation Hospital of Dover.

NANCY SHEERS, OWNER
Resident Name/Signature

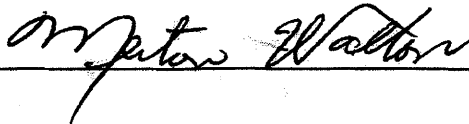


October 12, 2018
Date

1247 McKEE ROAD, DOVER, 19904
Property Address

1247 McKEE ROAD, DOVER, 19904
Owner Address

MERTON WALTON, OWNER
Resident Name/Signature

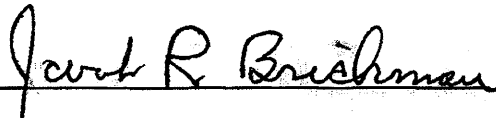


October 12, 2018
Date

1239 McKEE ROAD, DOVER, 19904
Property Address

1239 McKEE ROAD, DOVER, 19904
Owner Address

JACOB BRICKMAN, OWNER
Resident Name/Signature



October 12, 2018
Date

1278 McKEE ROAD, DOVER, 19904
Property Address

2078 BIG OAK ROAD, SMYRNA, 19977
Owner Address

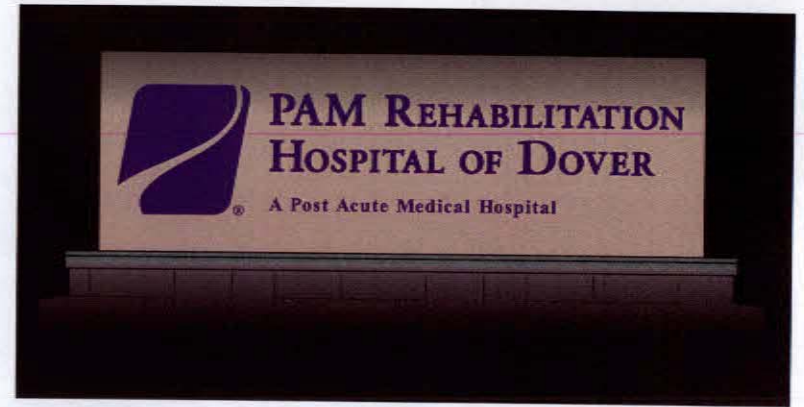
TYPE B / MONUMENT SIGNAGE

D/F EXTERNALLY ILLUMINATED MONUMENT SIGN

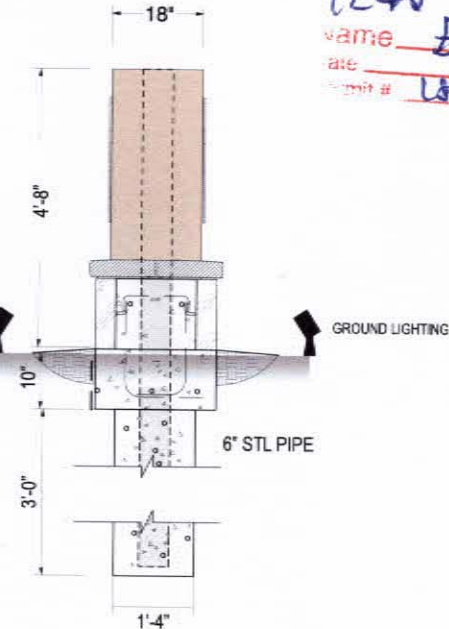
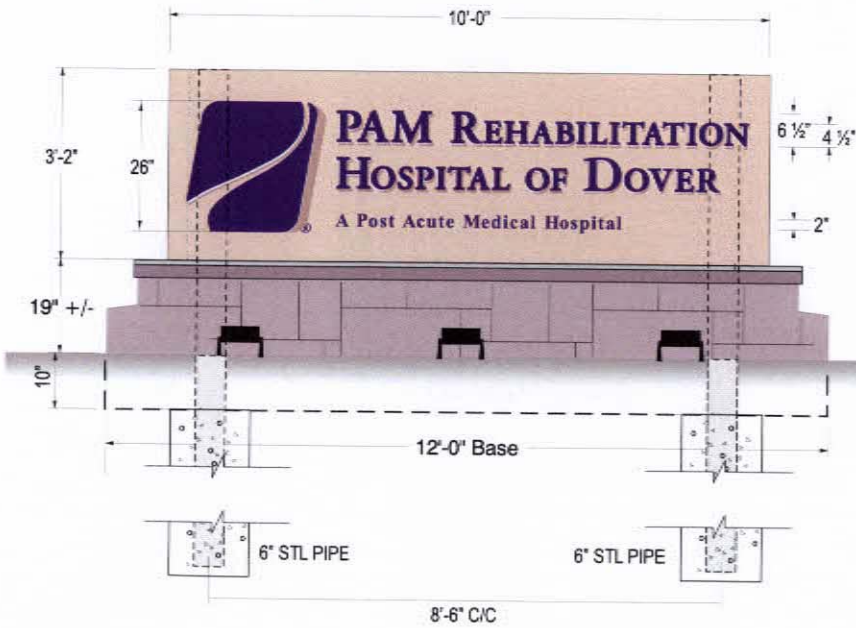
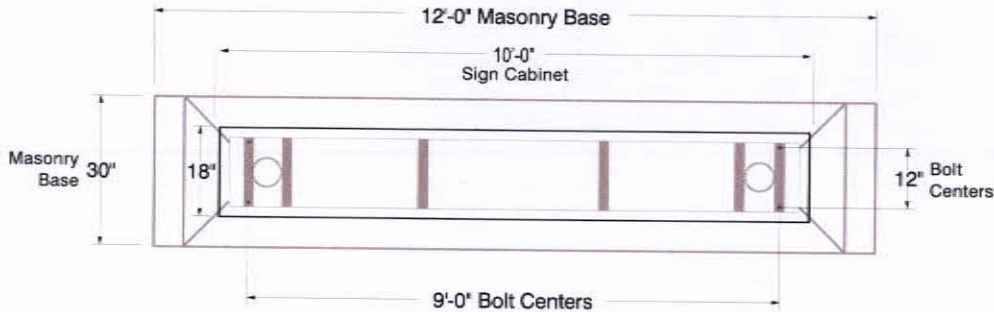
SCALE: 1/2" = 1'-0"

QUANTITY: 1

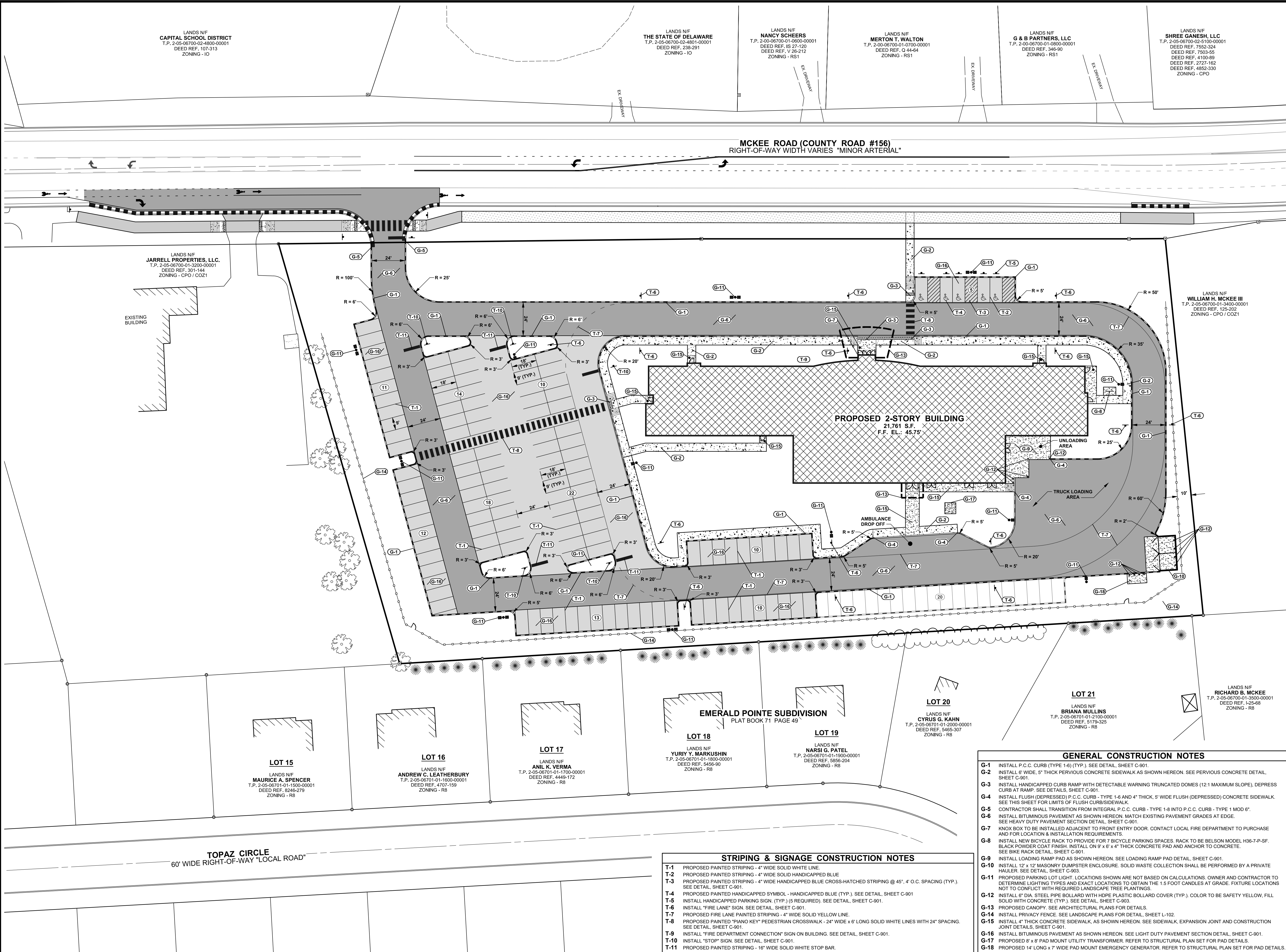
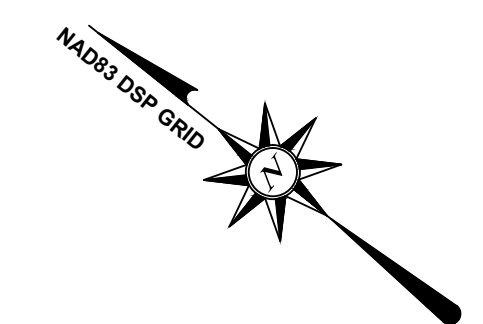
BASE : MASONRY BASE AND CAPSTONE BY OTHER CONTRACTOR, ALL FOOTINGS, REBAR & EXCAVATION ARE CONTRACTORS RESPONSIBILITY
SIGN CABINET : WELDED ALUMINUM ANGLE FRAMING
FACES : .125 ALUMINUM FACE, STUCCO FINISH AND PAINTED TO MATCH BUILDING COLOR
LOGO/ MAIN COPY : 1/4" ALUMINUM PAINTED PANTONE 2728c BLUE
SECONDARY COPY : ORACAL 8500-005 MIDDLE BLUE VINYL APPLIED TO SIGN FACE
ILLUMINATION : FLOOD LIGHT EXTERNAL ILLUMINATION (BY OTHERS)



SIMULATED NIGHT VIEW



APPROVED
 City of Dover - Dept of Planning
 1 monument sign
 1240 McKee Rd
 name Eddie Diaz
 date 7/29/18
 permit # 18-1103



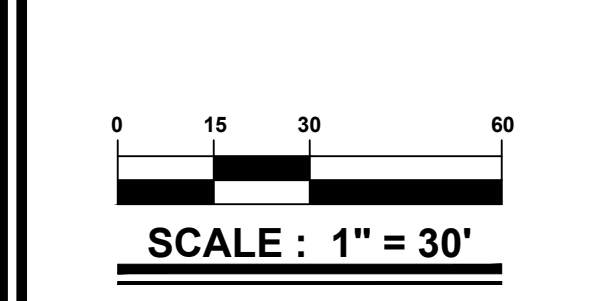
PROJECT TITLE

MDCORE PARTNERS PHYSICAL REHABILITATION HOSPITAL

MCKEE ROAD
CITY OF DOVER
KENT COUNTY, DELAWARE

SHEET TITLE

SITE & STRIPING PLAN



ISSUE BLOCK	DATE	DESCRIPTION
13.	1/26/18	REVISED PER OFFICE OF DRINKING WATER COMMENTS
12.	1/15/18	REVISED PER DNREC COMMENTS
11.	1/9/18	REVISED PER CITY OF DOVER PUBLIC WORKS COMMENTS
10.	1/2/18	REVISED PER CITY OF DOVER PUBLIC WORKS COMMENTS
9.	12/18/17	REVISED PER CITY OF DOVER PUBLIC WORKS COMMENTS
8.	12/4/17	REVISED PER CITY OF DOVER PLANNING COMMENTS
7.	11/20/17	REVISED PER CITY OF DOVER PUBLIC WORKS COMMENTS
6.	11/8/17	ISSUED FOR BIDDING
5.	10/11/17	REVISED PER DELDOT COMMENTS
4.	9/25/17	REVISED PER DELDOT & KENT CONSERVATION DISTRICT COMMENTS
3.	9/12/17	REVISED PER CITY OF DOVER PUBLIC WORKS & PLANNING COMMENTS
2.	7/11/17	REVISED PER DELDOT COMMENTS
1.	6/5/17	REVISED PER DELDOT COMMENTS

MARK DATE DESCRIPTION
LAYER/STATE: C-201

PROJECT NO.: 2016242.00
DATE: 4/20/2017
SCALE: 1" = 30"
DRAWN BY: J.M.P. PROJ. MGR.: G.V.M.

C-201
COPYRIGHT 2017

GENERAL CONSTRUCTION NOTES

- G-1 INSTALL P.C.C. CURB (TYPE 1-6) (TYP.). SEE DETAIL, SHEET C-901.
- G-2 INSTALL 6" WIDE, 5" THICK PERVIOUS CONCRETE SIDEWALK AS SHOWN HEREON. SEE PERVIOUS CONCRETE DETAIL, SHEET C-901.
- G-3 INSTALL HANDICAPPED CURB RAMP WITH DETECTABLE WARNING TRUNCATED DOMES (12:1 MAXIMUM SLOPE), DEPRESS CURB AT RAMP. SEE DETAILS, SHEET C-901.
- G-4 INSTALL FLUSH (DEPRESSED) P.C.C. CURB - TYPE 1-6 AND 4" THICK, 5" WIDE FLUSH (DEPRESSED) CONCRETE SIDEWALK. SEE THIS SHEET FOR LIMITS OF FLUSH CURB/SIDEWALK.
- G-5 CONTRACTOR SHALL TRANSITION FROM INTEGRAL P.C.C. CURB - TYPE 1-8 INTO P.C.C. CURB - TYPE 1 MOD 6".
- G-6 INSTALL BITUMINOUS PAVEMENT AS SHOWN HEREON. MATCH EXISTING PAVEMENT GRADES AT EDGE.
- G-7 KNOX BOX TO BE INSTALLED ADJACENT TO FRONT ENTRY DOOR. CONTACT LOCAL FIRE DEPARTMENT TO PURCHASE AND FOR LOCATION & INSTALLATION REQUIREMENTS.
- G-8 INSTALL NEW BICYCLE RACK TO PROVIDE FOR 7 BICYCLE PARKING SPACES. RACK TO BE BELSON MODEL H36-7-P-SP. BLACK POWDER COAT FINISH. INSTALL ON 9' x 8' x 4" THICK CONCRETE PAD AND ANCHOR TO CONCRETE. SEE BIKE RACK DETAIL, SHEET C-901.
- G-9 INSTALL LOADING RAMP PAD AS SHOWN HEREON. SEE LOADING RAMP PAD DETAIL, SHEET C-901.
- G-10 INSTALL 12' x 12' MASONRY DUMPSTER ENCLOSURE. SOLID WASTE COLLECTION SHALL BE PERFORMED BY A PRIVATE HAULER. SEE DETAIL, SHEET C-903.
- G-11 PROPOSED PARKING LOT LIGHT. LOCATIONS SHOWN ARE NOT BASED ON CALCULATIONS. OWNER AND CONTRACTOR TO DETERMINE LIGHTING TYPES AND EXACT LOCATIONS TO OBTAIN THE 1.5 FOOT CANDLES AT GRADE. FIXTURE LOCATIONS NOT TO CONFLICT WITH REQUIRED LANDSCAPE TREE PLANTINGS.
- G-12 INSTALL 6" DIA. STEEL PIPE BOLLARD WITH HDPE PLASTIC BOLLARD COVER (TYP.). COLOR TO BE SAFETY YELLOW. FILL SOLID WITH CONCRETE (TYP.). SEE DETAIL, SHEET C-903.
- G-13 PROPOSED CANOPY. SEE ARCHITECTURAL PLANS FOR DETAILS.
- G-14 INSTALL PRIVACY FENCE. SEE LANDSCAPE PLANS FOR DETAIL, SHEET L-102.
- G-15 INSTALL 4" THICK CONCRETE SIDEWALK, AS SHOWN HEREON. SEE SIDEWALK, EXPANSION JOINT AND CONSTRUCTION JOINT DETAILS, SHEET C-901.
- G-16 INSTALL BITUMINOUS PAVEMENT AS SHOWN HEREON. SEE LIGHT DUTY PAVEMENT SECTION DETAIL, SHEET C-901.
- G-17 PROPOSED 8' x 8' PAD MOUNT UTILITY TRANSFORMER. REFER TO STRUCTURAL PLAN SET FOR PAD DETAILS.
- G-18 PROPOSED 14' LONG x 7' WIDE PAD MOUNT EMERGENCY GENERATOR. REFER TO STRUCTURAL PLAN SET FOR PAD DETAILS.

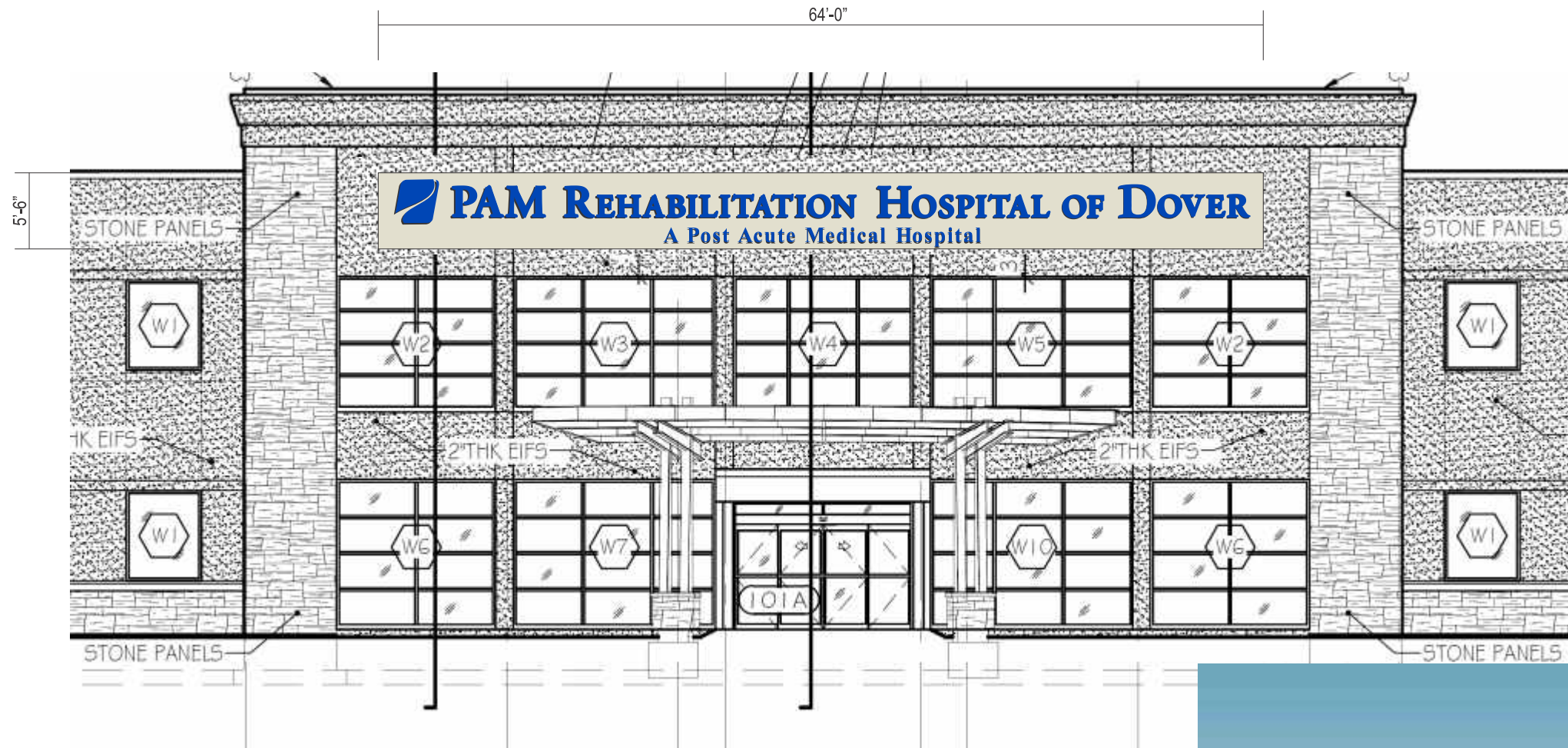
STRIPING & SIGNAGE CONSTRUCTION NOTES

- T-1 PROPOSED PAINTED STRIPING - 4" WIDE SOLID WHITE LINE.
- T-2 PROPOSED PAINTED STRIPING - 4" WIDE SOLID HANDICAPPED BLUE.
- T-3 PROPOSED PAINTED STRIPING - 4" WIDE HANDICAPPED BLUE CROSS-HATCHED STRIPING @ 45°, 4" O.C. SPACING (TYP.). SEE DETAIL, SHEET C-901.
- T-4 PROPOSED PAINTED HANDICAPPED SYMBOL - HANDICAPPED BLUE (TYP.). SEE DETAIL, SHEET C-901.
- T-5 INSTALL HANDICAPPED PARKING SIGN. (TYP.) (S REQUIRED). SEE DETAIL, SHEET C-901.
- T-6 INSTALL "FIRE LANE" SIGN. SEE DETAIL, SHEET C-901.
- T-7 PROPOSED FIRE LANE PAINTED STRIPING - 4" WIDE SOLID YELLOW LINE.
- T-8 PROPOSED PAINTED "PIANO KEY" PEDESTRIAN CROSSWALK - 24" WIDE x 6' LONG SOLID WHITE LINES WITH 24" SPACING. SEE DETAIL, SHEET C-901.
- T-9 INSTALL "FIRE DEPARTMENT CONNECTION" SIGN ON BUILDING. SEE DETAIL, SHEET C-901.
- T-10 INSTALL "STOP" SIGN. SEE DETAIL, SHEET C-901.
- T-11 PROPOSED PAINTED STRIPING - 16" WIDE SOLID WHITE STOP BAR.



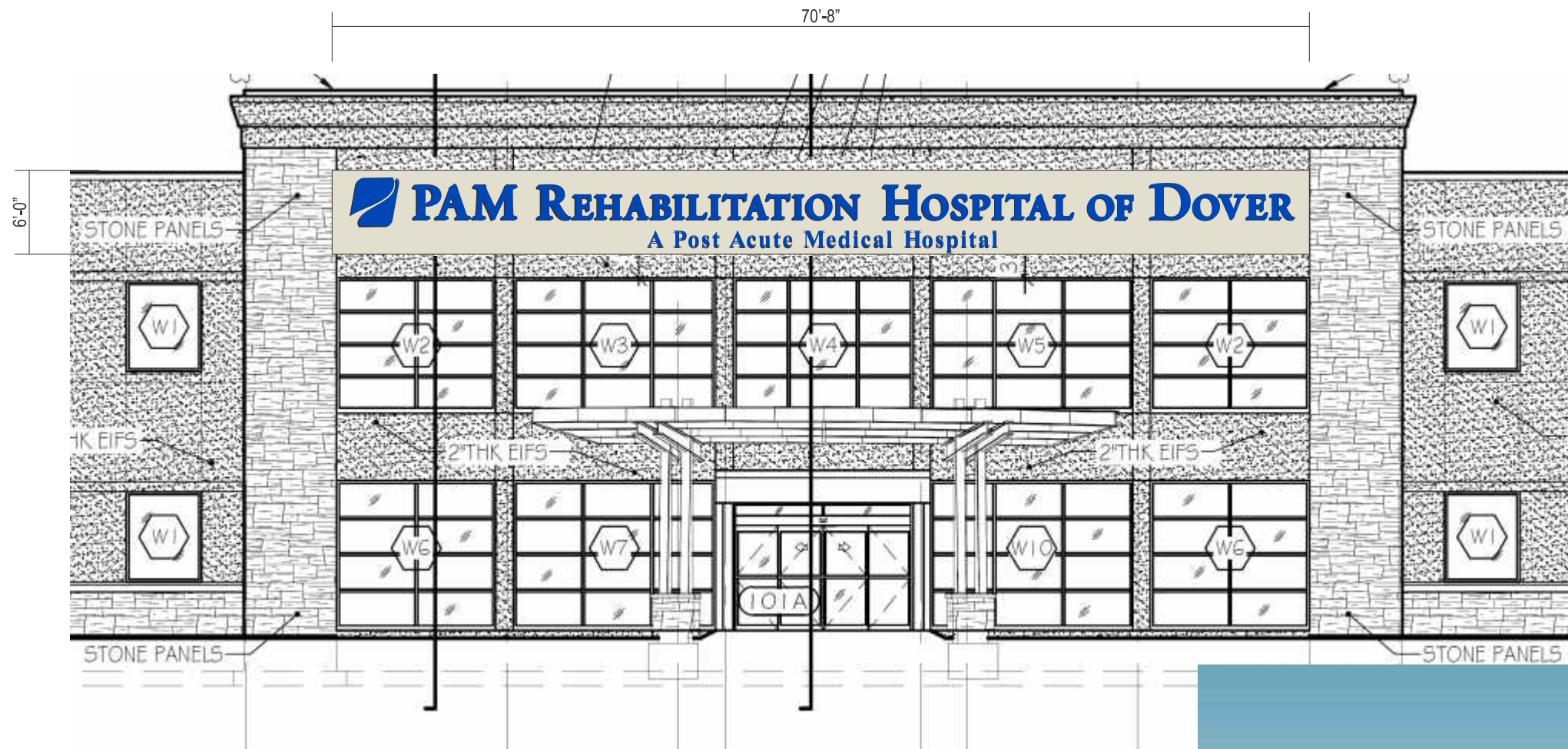
PAM REHABILITATION HOSPITAL OF DOVER
A Post Acute Medical Hospital

EXTERIOR SIGNAGE



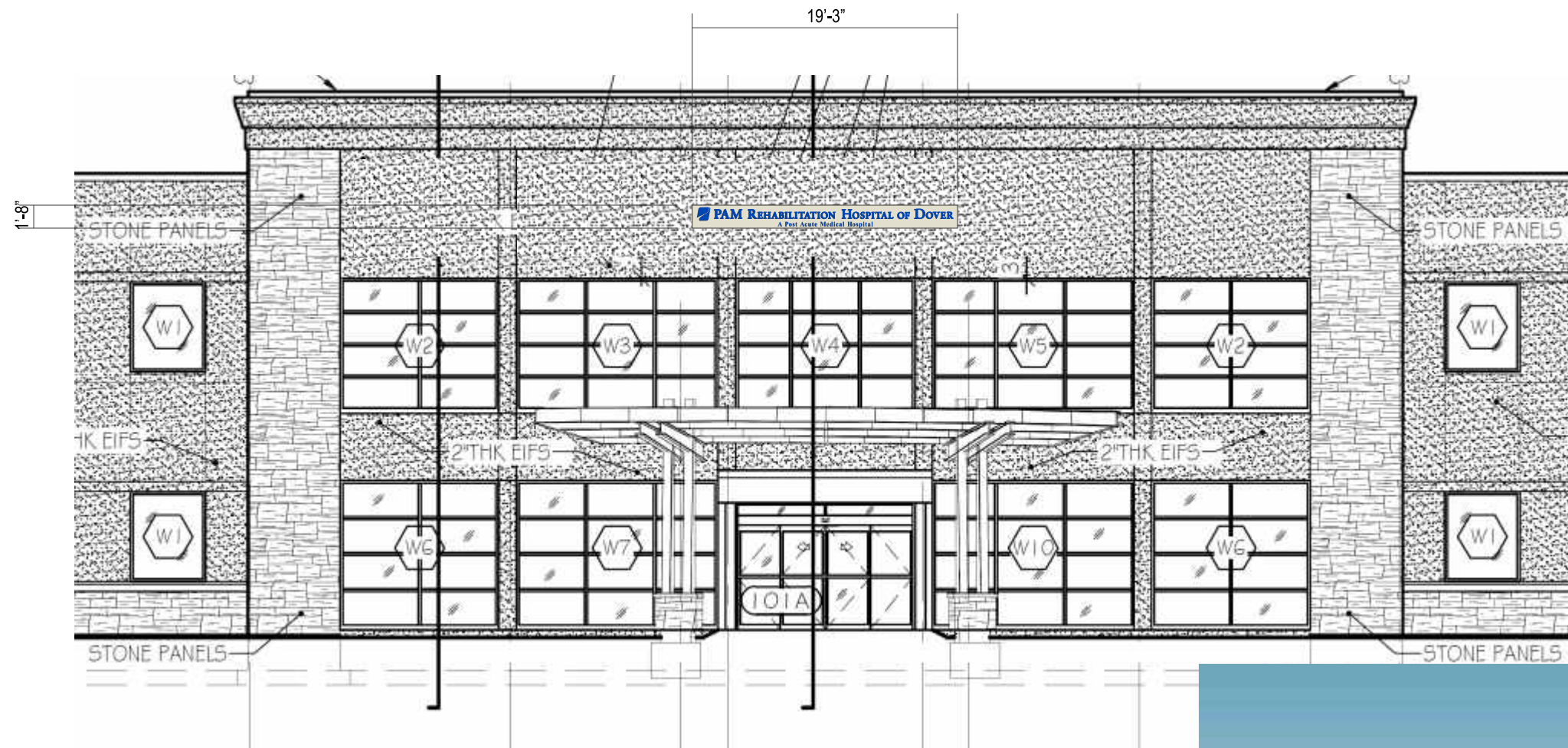
NORTH (FRONT) ELEVATION - FACE-LIT / HALO-LIT CHANNEL LETTERS / LOGO AND FCO TAGLINE ON BACKER CABINET
 SCALE: 3/32" = 1'-0" 352 SQ FT





NORTH (FRONT) ELEVATION - FACE-LIT / HALO-LIT CHANNEL LETTERS / LOGO AND FCO TAGLINE ON BACKER CABINET
 SCALE: 3/32" = 1'-0" 424 SQ FT





NORTH (FRONT) ELEVATION - FACE-LIT / HALO-LIT CHANNEL LETTERS / LOGO AND FCO TAGLINE ON BACKER CABINET
 SCALE: 3/32" = 1'-0" 32 SQ FT



TYPE A / BUILDING SIGNAGE

FACE LIT / BACK LIT CHANNEL LETTERS W/ LOGO AND TAGLINE

SCALE: AS NOTED

QUANTITY: 1
TOTAL SQ FOOTAGE (BOXED)
352 SQ FT

BACKER PAN / WIREWAY : FABRICATED ALUMINUM WIREWAY SHOE-BOX PAN CABINET,
CABINET PAINTED TO MATCH SW 7688 SUNDEW

ATTACHMENT : ATTACHMENT HARDWARE TBD IN FIELD PER WALL CONDITIONS

CHANNEL LETTERS:

BACKS : CLEAR POLYCARB W/ DIFFUSER FILM

FACES : .177" ACRYLIC W/ 3M DUAL FILM DIGITALLY PRINTED TO MATCH PANTONE 2728c BLUE

RETURNS : .040" x 3" DEEP PTM WHITE

TRIM : 1" PTM PANTONE 2728c BLUE

ILLUMINATION : WHITE LED

ATTACHMENT : MOUNTED 1 1/2" FROM BACKER PAN

LOGO:

BACKS : CLEAR POLYCARB W/ DIFFUSER FILM

FACES : .177" WHITE POLYCARB W/ 3M DUAL FILM DIGITALLY PRINTED TO MATCH PANTONE 2728c BLUE

RETURNS : .125" x 3" DEEP PTM WHITE

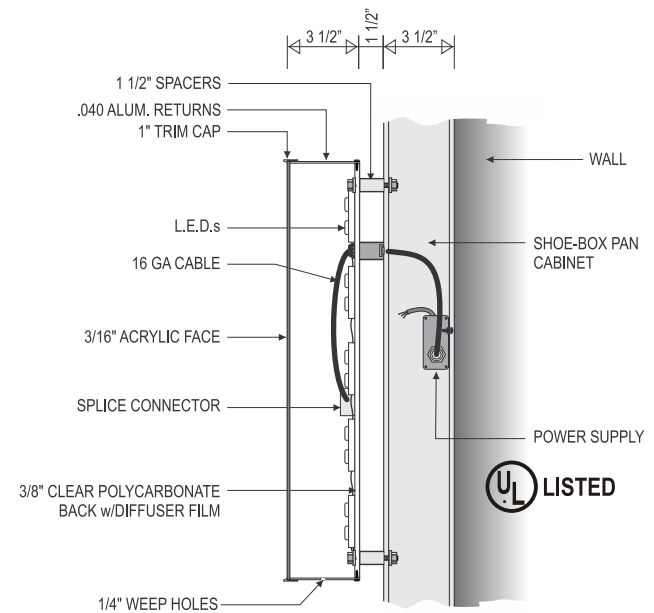
RETAINER : 1" ALUMINUM RETAINER PTM PANTONE 2728c BLUE

ILLUMINATION : WHITE LED

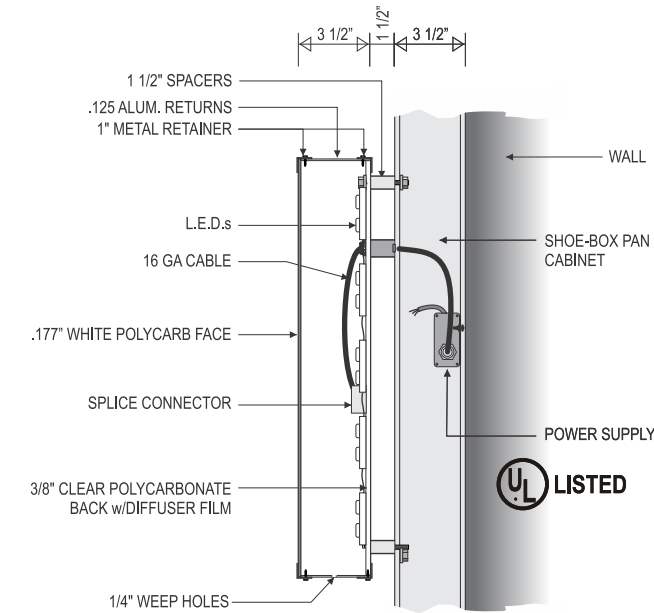
ATTACHMENT : MOUNTED 1 1/2" FROM BACKER PAN

TAG LINE LETTERS :

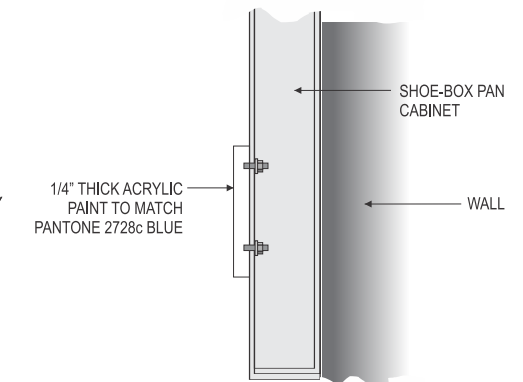
LETTERS : 1/4" THICK WHITE ACRYLIC PAINTED PANTONE 2728c BLUE



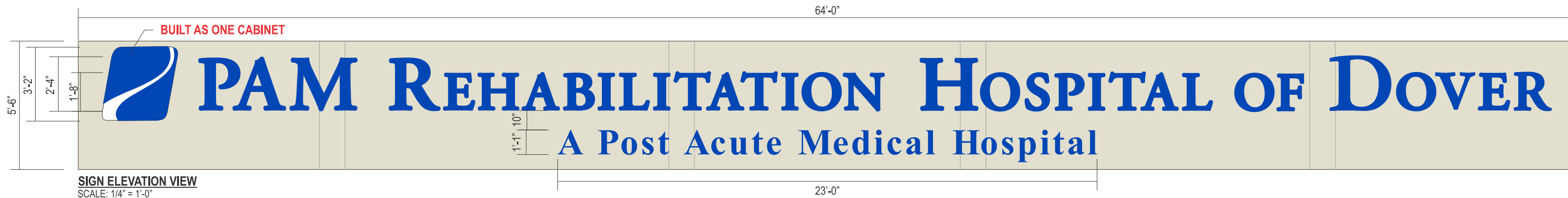
SECTION DETAIL - FACE-LIT/BACK-LIT CHANNEL LETTER



SECTION DETAIL - FACE-LIT/BACK-LIT LOGO



SECTION DETAIL - PUSH-THROUGH COPY



SIGN ELEVATION VIEW
SCALE: 1/4" = 1'-0"



SIMULATED NIGHT VIEW

Zoning Ordinance , Article 5 §4.7

SIGN TABLE									
Use		Road Type	Permitted Signs						
	Specific		Sign Type	Number Permitted	Max. Size	Max. Height	% of Total Wall Area	Setback (R.O.W.)	Exclusion Zone
Residential Uses and Nonresidential Uses in Residential Districts	Single-Family Detached Semi-Detached	All Streets	Signs permitted in § 4.5 only						
	Professional Office	All Streets	Post or Monument	1/entrance	12 S.F.	7 feet	N/A	5 feet	20 feet
			Wall	1/frontage	16 S.F.	N/A	< = 15%	N/A	N/A
	Subdivisions Multi-Family Residential Uses Mobile Home Parks	All Streets	Wall &	1/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
			Monument or Post and Panel	2/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
Nonresidential Uses Adjacent to Residential Districts or Uses	Places of Worship	Urban Principal Arterial	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
	Daycare Centers		Monument or Post and Panel	1/entrance	32 S.F.	7 feet	N/A	10 feet	20 feet
			OR						
	Approved Conditional Uses		Post** &	1/frontage	16 S.F.	7 feet	N/A	5 feet	5 feet
	Educational/ Institutional	Urban Minor Arterial	Pylon*	1/frontage	32 S.F.	30 feet	N/A	30 feet	50 feet
			Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
	All Other Approved Nonresidential Uses	Urban Minor Arterial	Monument or Post and Panel	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			OR						
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
	Urban Local/ Collector	Nonresidential Uses	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
			Monument or Post and Panel	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			OR						
Post**			1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet	
Nonresidential Uses in Nonresidential Districts	Nonresidential Uses	Urban Principal Arterial	Wall &	2/frontage	No max	N/A	< = 15%	N/A	N/A
			Monument or Post and Panel &	1/entrance	100 S.F.	10 feet	N/A	10 feet	20 feet
			Pylon OR *	1/frontage	100 S.F.	30 feet	N/A	15 feet	50 feet
			Pylon*	1/frontage	150 S.F.	30 feet	N/A	31 feet	50 feet
		Urban Minor Arterial	Wall &	2/frontage	64 S.F.	N/A	< =15%	N/A	N/A
			Monument or Post and Panel	1/entrance	64 S.F.	7 feet	N/A	5 feet	20 feet
			OR						
		Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet	
		Urban Local/ Collector	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
			Monument or Post and Panel	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
OR									
Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet			

* Denotes that an additional wall sign may be permitted/added in lieu of a freestanding pylon sign.

** Post sign would be in lieu of a monument sign or post and panel sign.



City of Dover

Board of Adjustment

December 19, 2018

V-18-11

Location: 127, 129, 133, and 135 Roosevelt Avenue

Applicant: Miller Investments, LLC

Owner: David Miller

Tax Parcels: ED-05-077.18-02-71.00-000, ED-05-077.18-02-72.00-000, and ED-05-077.18-02-73.00-000

Application Date: October 12, 2018

Present Zoning: RG-2 (General Residence Zone)

Present Use: Two (2) one-family dwellings and two (2) multi-family apartment buildings, total 10 dwelling units across all four buildings

Proposed Use: One multi-family apartment building with 21 dwelling units

Reviewed By: Eddie Diaz

Variance Type: Area Variance

Variations Requested: 1) To exceed the RG-2 zone's maximum lot coverage of 60% and allow lot coverage of 75.7%
2) To allow accessory buildings to take up 56.1% of the side and rear yards, exceeding the typical limit of 30%
3) To allow parking within 15 feet of a wall belonging to a multi-family dwelling

Previous Applications

On July 24, 2018, the applicant for this project submitted to the Planning Office an application for rezoning of 127, 129, 133, and 135 Roosevelt Avenue (Application #Z-18-01). The rezoning application proposed changing the zoning of these properties from the then-designation of R-8 (One-Family Residence Zone) to a new designation of RG-2 (General Residence Zone). The Planning Commission held a Public Hearing for the rezoning application on September 17, 2018 and recommended the rezoning to City Council for approval. City Council held a Public Hearing and Final Reading of the application on October 8, 2018 and approved the rezoning as ordinance #2018-08.

Project Description

The three (3) parcels addressed as 127, 129, 133, and 135 Roosevelt Avenue currently contain a mix of one-family and multi-family residences, all operated as rental units. The applicant proposes to increase the number of dwelling units on site from ten (10) units to 21 units by demolishing the four (4) existing structures, consolidating the three parcels into one, and building one new three-story apartment building.

The new apartment building would be accompanied by 48 on-site parking spaces to meet the minimum parking requirements of the *Zoning Ordinance*. Six (6) accessory buildings are also proposed, which are intended to turn 38 of the parking spaces into covered parking. The remaining ten (10) parking spaces would be located in an alcove on the first floor of the apartment building, thus ensuring they are also covered, by the second floor.

A site plan showing the applicant's proposed project is in Exhibit C.

In order to build the apartment building, required parking, and accessory buildings in the format proposed by the applicant, the project would need three variances as follows:

- 1) Lot coverage: The project is in the RG-2 (General Residence) Zone, which for multi-family dwellings sets a maximum lot coverage of 60%. The project as proposed would have a lot coverage of 75.7%.
- 2) Accessory structures: The *Zoning Ordinance* sets a maximum area for accessory structures in all residential zones, equal to 30% of the area given to the property's required rear and side yards. In this case, the covered parking would total 56.1% of the required rear and side yards of the consolidated lot.
- 3) Parking near a wall: The *Zoning Ordinance* restricts parking near the walls of multi-family dwellings. Specifically, cars cannot be parked within 15 feet of any wall belonging to such a dwelling. This rule would ordinarily prevent putting parking in an alcove of the first floor of the building in the way the applicant proposes.

Should these variances be granted, the project will be able to proceed toward the Planning Commission's Site Development Plan review process, subject to further refinement of the design. The design shown in the site plan provided should be considered preliminary. The project will need to be reviewed and approved by the Planning Commission before it can

apply for a Building Permit and be constructed, and it will also need a Parcel Consolidation Plan to combine the three lots into one parcel.

Adjacent Land Uses

A Zoning Map showing the zoning of the three parcels and the neighboring properties can be found in Exhibit A. The property is located on the north side of Roosevelt Avenue, east of South DuPont Highway. This section of Roosevelt Avenue exits only onto South DuPont Highway and does not have any other road connections.

The project's neighbors along Roosevelt Avenue include seven (7) one-family dwellings on individual lots, zoned R-8 (One-Family Residence Zone). In addition, immediately to the west of the property is a building zoned C-1 (Neighborhood Commercial Zone) which appears to be a combined residential and commercial building. Immediately to the east of the property is the Riverside Mobile Home Park, split-zoned between R-8 and the MH (Manufactured Housing) Zone. The R-8 section contains eight (8) homes while the MH section contains an estimated 32 additional homes. At the east end of Roosevelt Avenue is the entrance to the Riverchase Apartments, which consists of 80 apartment units split between six (6) multi-family apartment buildings. The Riverchase Apartments like the subject property are zoned RG-2.

Several nonresidential uses are among the project's neighbors on Roosevelt Avenue as well. Across the street from the project is the Kent County Theater Guild, zoned R-8. West of the project site on the north side of Roosevelt Avenue is a grass lot belonging to a martial arts studio, whose main building is on South DuPont Highway. West of the grass lot is a car wash at the corner of Roosevelt Avenue and South DuPont Highway. A multi-tenant building containing a liquor store and salon completes the block of South DuPont Highway between Roosevelt Avenue and Evergreen Drive, the next street to the north. These three properties are zoned C-4 (Highway Commercial Zone). On the south side of Roosevelt Avenue are a daycare center, zoned R-8, and an auto dealership at the corner with South DuPont Highway, zoned C-4.

Finally, the project does have some neighbors which are not on Roosevelt Avenue. These are the one-family residences located in the Morris Estates II subdivision immediately adjacent to the north, zoned R-8. These residences front on Evergreen Drive and Evergreen Circle, and three of them also back onto the project site.

Code Citations

RG-2 (General Residence Zone) and Lot & Bulk Standards

Zoning Ordinance Article 3 §2 outlines the permitted uses in the RG-2 Zone. These permitted uses include what are called "garden apartments;" Garden Apartments are defined in Article 12 of the *Zoning Ordinance* as follows:

Garden apartments: Multiple dwellings designed to provide maximum accessibility of the dwelling units to the private open space. The dwelling units share a common lot area which is the sum of the required lot areas of all dwelling units within the building.

“Multiple dwellings” and “multi-family dwelling” are further defined as follows:

Dwelling, multi-family: (See "dwelling, multiple"—A building, or portion thereof, containing more than two dwelling units).

Dwelling, multiple: A building, or portion thereof, containing more than two dwelling units.

The applicant’s project is considered a Garden Apartment because the common lot area is the sum of the required lot areas of all dwelling units within the building; see the “Lot area/Dwelling Unit” line in Table 1 below.

Zoning Ordinance Article 4 §4.3 gives the bulk standards for buildings in the RG-2 Zone. These include separate standards for “one-family detached dwellings,” “one-family multiple semi-detached and other two-family dwellings,” and “multiple dwellings,” the last category of which garden apartments fall under. The standards for multiple dwellings, compared with the project proposal, are listed below:

**Table 1: Zoning Requirements and Requested Bulk Standards
 V-18-11 Lands of Miller Investments LLC at 127, 129, 133, and 135
 Roosevelt Ave**

	RG-2 (General Residence Zone)	Applicant's project
<i>Standard:</i>	<i>Minimum required for multiple dwellings:</i>	<i>Proposed:</i>
Lot area/Dwelling Unit (sq. ft.)	1,700	1,718
Lot width (ft.)	100	235
Lot depth (ft.)	125	153
Front yard (ft.)	30	30
Side yard (ft.)	25	58.5
Total both side yards (ft.)	50	117
Rear yard (ft.)	30	47.75
Off-street parking spaces	2/Dwelling Unit*	2.25/Dwelling Unit
<i>Standard:</i>	<i>Maximum Permitted for multiple dwellings:</i>	<i>Proposed:</i>
Building height		
Stories	3	3
Feet	40	<40
Floor area ratio	none prescribed	0.85
Lot Coverage	60%	75.7%
Number of dwelling units in group of attached dwellings or in multiple dwellings	none prescribed	21

*Superseded by *Zoning Ordinance* Article 6 §3, which prescribes 2.25 spaces/Dwelling Unit for all apartment uses

Based on the bulk standards for multiple dwellings in the RG-2 Zone, the first variance requested is for 75.7% lot coverage, exceeding the maximum 60%.

Accessory Buildings

Zoning Ordinance Article 5 §1.1 describes regulations for accessory buildings in residential zones. Article 5 §1.1 reads in part as follows:

1.1 *Accessory buildings.* An accessory building may be located in any required side or rear yard provided:

1.11 Such buildings shall not exceed 15 feet in height.

1.12 Such buildings shall be set back five feet from any lot line and shall not be located less than ten feet from an adjoining principal structure.

1.13 All such buildings in the aggregate shall not occupy more than 30 percent of the area of the required rear and side yard.

Note that the term “required rear and side yard” refers to the area between the property line and the setback line in these yards, as opposed to the area between the property line and the principal building. For instance, for this project the “required” rear yard is 30 feet deep by code, but the actual rear yard is 47.75 feet.

According to Planning Staff measurements, the six (6) accessory buildings proposed by the applicant have a combined total area of about 6,156 SF. The total area of the required rear and side yards for the property comes to about 11,700 SF. This indicates that the accessory buildings will take up about 52.6% of the required rear and side yards. This number is close to the 56.1% requested by the applicant, which is likely the result of more accurate measurements. Because more than 30% is proposed, this is the second variance requested. Staff estimates that without the variance about 3,510 SF worth of accessory buildings could be constructed, enough to cover about 21 parking spaces (as opposed to the proposed 38).

Parking Near the Wall of a Multi-Family Dwelling

Zoning Ordinance Article 6 §5.3 provides the following regulations:

5.3 *Supplementary parking regulations for multiple dwellings.* No parking space shall be located in any front yard or within three feet of any lot line in side or rear yards. The parking of motor vehicles within 15 feet of any wall or portion thereof, is prohibited. Except for electric vehicle charging stations, no automobile service shall be permitted to be extended to users of the lot, including sales, repair or fueling, and no gasoline, oil, grease, or related supplies shall be stored or sold in any such lot or in any garage on such lot.

The general purpose of these regulations is to reduce the impact of vehicles on site to the people living in the dwelling units. They do not prohibit parking vehicles under the second floor of the building. However, the site plan currently shows that the north wall of the first

floor of the building would be right up against a 10-space parking area. In order to meet the zoning code, this wall would have to be moved 15 feet to the south, away from the parking spaces. The applicant does not want to do this, thus forming the basis of the third variance request.

As previously stated, all three variances would be required for the applicant to build their new apartment building the way their preliminary plan describes. If any of the variances are not granted, substantial changes to the basic site layout will be required before the project can be reviewed by the City's Planning Commission. It should be also noted that if the second and third variances are granted, the project will not be exempt from any Building Code or Fire Code provisions related to the building construction and parking design proposed. These codes may also require changes to the design and should be addressed early in the design process.

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 a part of the application, the applicant was asked to state how the requested variance relates to the above four criteria. The applicant's responses are provided below, along with a staff assessment of the application in accordance with the required criteria.

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

Applicant Response:

"The three parcels with four buildings under consideration for variance by the Board of Adjustments were recently unanimously approved for rezoning to RG2 by

the Dover Planning Commission and Dover City Council. RG2 permits Multi-family apartment housing. Two of the buildings had previously been converted to apartment buildings.”

Staff Response:

The RG-2 Zone in the City of Dover permits certain agricultural uses; one family detached dwellings on 6,000 square foot lots; public buildings; and garden apartments, as well as a variety of conditional uses. Other types of multiple dwellings other than garden apartments are permitted conditionally in RG-2. The RG-2 Zone is more appropriate for the two multi-family dwellings currently on site than the previous R-8 Zoning. The RG-2 zoning also makes possible the applicant’s proposed project.

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

Applicant Response:

“The property lies in an area with an "eclectic" mix of uses. Multi-family housing is across the street to the east at the end of Roosevelt Avenue, west of the property is C-1 and C-4 zoning including a car wash and multi-tenant building, to the east is a manufactured housing community and to the south of Roosevelt Avenue is additional C-4 with Automobile dealerships. The area contains quite a mix of uses with an apparent shift from historic single family residences toward multi-family and commercial. The proposed redevelopment will follow this trend in making use of the two dilapidated residences as well as two other dilapidated buildings previously converted to Multi-family apartment buildings.”

Staff Response:

Staff generally concurs with the applicant’s description of the surrounding area. The referenced multi-tenant building may be the building zoned C-1 or the salon and liquor store building. There is only one automobile dealership in the immediate area, though its size and the variety of cars it sells makes it appear to be multiple dealerships. The applicant’s description of a shift from single-family uses toward multi-family and commercial uses in the area appears to be true. The applicant’s description of the existing structures on site as “dilapidated” is more debatable.

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

Applicant Response:

“The applicant seeks to redevelop the properties as a single garden style apartment. The proposed structure contains 21 units. The parking required by the City is 2 ¼ spaces per unit, which parking drives the variance requests. The request for a variance in the lot coverage allows for adequate parking for the 21 units. The request for a variance in the percent of accessory buildings is for the purpose of permitting an upgraded amenity of covered parking. The final variance permits parking under a portion of the structure. None of the requested variances, if

granted, would have any negative impact on surrounding properties and in fact, allows for construction of a higher quality project with amenities. It should be noted that parking under a structure is not unusual in the City, as examples can be found at the Schwartz Center for the Arts, Wesley College dorms as well as the office building housing the Attorney General and at the Courthouse.

Permitting the redevelopment of this dilapidated section of Roosevelt Avenue would in fact, represent a benefit to the neighboring properties.”

Staff Response:

The applicant states in the above response that there will be no negative impacts on surrounding properties but offers little to support this besides the idea that the project will be high-quality and have amenities. These are aspects which affect the tenants more than they do the neighbors. Staff does believe there are some elements of the site proposal which may negatively affect the neighbors if variances are granted to permit them.

One potential impact is related to the density of the project. The Planning Commission approved a zoning district that allows new multi-family uses on this site, so some increase in density is to be expected. However, the applicant’s proposed project would achieve a density of 25.6 units per acre. For comparison, the other RG-2 zoned property on the street has a density of only 10.8 units per acre; the manufactured home park has a density of 8.3 units per acre; and the ten units currently on the project site have a density of 12.2 units per acre. The density and design proposed do not allow the site to have the proportion of open space enjoyed by the other properties on the street. The construction of the new apartment building is therefore likely to change the street’s character, a prospect that neighboring property owners may take issue with. As the applicant states, the parking required for the requested number of units drives the first variance. Reducing the density of the project would reduce the amount of required parking, in turn causing a reduction in impervious surface on site so that a lesser variance or no variance is needed.

Another potential impact may come from the proximity and number of accessory buildings. While the covered parking does meet the minimum 5-foot setback for accessory buildings, these structures are very large compared to the typical accessory sheds and garages seen in residential zones. The immediate neighbors will see these structures run parallel along most of their adjoining property lines. The bulk of these structures could be hidden in various ways, such as through fencing and landscaping, but it is not clear at this time that such things are proposed. The effect could also be reduced by simply having fewer accessory buildings, thus reducing the area they take in the rear and side yards so that the second variance is not needed.

Planning Staff does not see likely negative impacts to neighbors from parking against the wall of the apartment building underneath the second floor. In such a

location, the parking spaces are well set back from neighboring properties and are not visible from most angles. There may have been some negative impacts if the parking spaces were both next to a wall and out in the open, which is the scenario envisioned by the ordinance. However, such a parking configuration is not proposed for this project.

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:

“The proposed redevelopment of those run down properties represent a significant improvement to an area of the City that badly needs such redevelopment.

The most significant requested variance, lot coverage ratio, permits the construction of a building containing 21 units. Without this variance the project would be limited to 11 units (or a request to eliminate much of the parking, which would have a negative impact on the surrounding properties). Absent a granting of this variance, the project is not economically viable and will be abandoned. The variance request more for accessory structure area is driven by the City's interpretation that covered parking is considered the same as a garage or storage shed and thus the limitations. The granting of this variance permits an attractive amenity to the project allowing it to be more marketable with higher probability of being commercially competitive and successful.

In, Kwik-Check Realty v. New Castle, several instructive points were made by the Court. The Court noted when considering an "area" variance cases (such as applicable here), the proper test in Delaware is the less burdensome one of the exceptional practical difficulty (as opposed to the higher standard of unnecessary hardship). The Court allowed that exceptional practical difficulty may be met, under appropriate weighing of the other impacts, in a desire to upgrade a business, remain competitive and increase responses herein to profits. The balanced approach adopted by the Court is reflected in question 3 and this question 4 which poses a balance between any negative impact on neighboring properties against either the benefit and potential negative impact of granting or not granting the variances.

It is respectfully submitted that the redevelopment of these properties, which granting of these variances permits, result in both a higher likelihood of a successful project as well as a significant improvement (rather than detriment) to the neighboring properties and the surrounding area.”

Staff Response:

Staff concurs that the inability to improve a property, or stay competitive as a result of area limitations, may be a legitimate exceptional practical difficulty that would justify granting a variance. The applicant claims a difficulty that is economic in

nature, saying that the project would not be viable if they had to reduce the number of units to eleven (11). However, it is not clear how they arrived at this number being the total they could build with no variances. This is only one unit more than what already exists on the site.

It is important to note that while a variance may be granted to ensure the applicant can realize a return on investment and thus build the project, the purpose of the variance should not be to maximize the applicant's return on investment by permitting a use greatly more intensive than what's allowed under the *Zoning Ordinance's* design requirements. In this case the balancing test cited by the applicant must be used. The intensive use proposed for the property may pose a negative impact on neighboring properties which outweighs the negative impact imposed on the property owner if the variances are not granted. Absent more explanation from the applicant as to why there will be no negative impacts, or why they believe their building capabilities to be so limited, one must look to the potential issues caused by the project's density and the size of its accessory buildings.

Variance Recommendations

Staff recommends **denial** of the first variance for lot coverage, for reasons as follows:

- This variance request is driven by parking, which in turn is driven by the proposed density (unit count) of the development. While the RG-2 Zone does not specify a maximum density, the project density may still be considered greatly more intensive than that allowed by zoning based on how much it causes the project to exceed maximum lot coverage. A greatly intensive use is more likely to negatively impact surrounding properties.
- It is not clear why the applicant believes only (11) units can be built on the property if no variances are granted. It is not known how many units the applicant needs for the project to be viable.
- Because the number of units needed to make the project viable is not known, it is not clear the project passes the balancing test of the exceptional practical difficulty standard; i.e. it is not clear the potential harm to the applicant outweighs the potential harm to neighboring property owners.

Staff recommends **denial** of the second variance for accessory building coverage, for reasons as follows:

- The size of the accessory structures combined with their proximity to the property lines of the site is likely to cause negative impacts on the immediate neighbors, absent mitigating features such as fences or landscape screening. It is not clear from the applicant's designs whether such features are proposed.
- While covered parking as an amenity could make the project more attractive to potential tenants, it is not clear that the project's economic viability depends on it. If the first variance was granted and this second one was not, the applicant could still

build some covered parking up to the 30% limit, which the applicant could then distribute among the tenants as they see fit.

Staff recommends **approval** of the third variance for allowing parking within 15 feet of a wall. Staff further recommends this variance be limited to any parking located underneath or partially underneath the building. The recommendation is given for the following reasons:

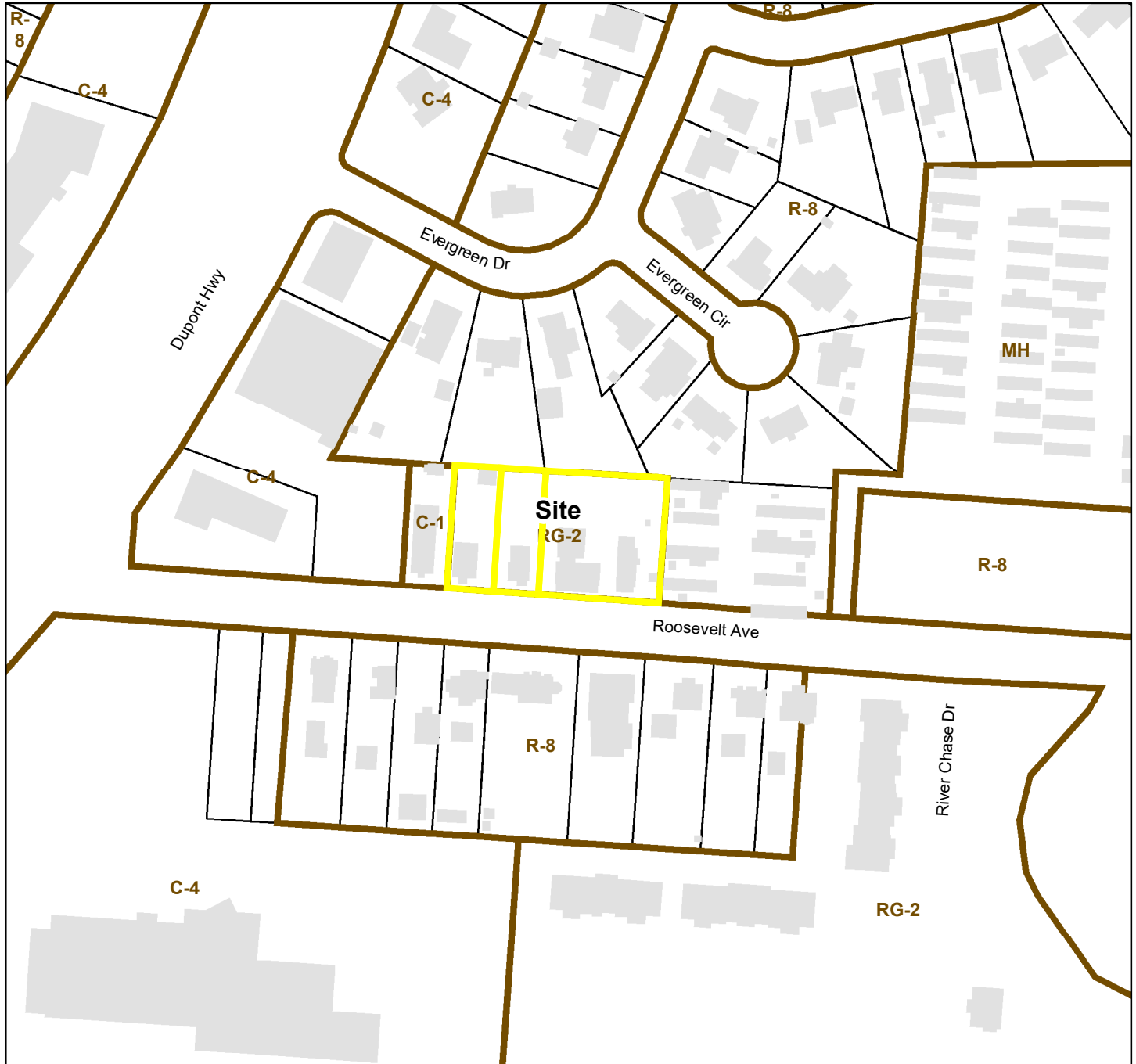
- No negative effects on neighboring properties would be expected from granting this variance.
- If this variance is not granted, the parking under the building will have to be relocated or removed. This would mean either increasing the magnitude of the other two requested variances or reducing the number of dwelling units without the benefit of an accompanying impervious surface reduction.
- Limiting the variance to parking spaces under the building will give the applicant the flexibility they need to design this parking area as they see fit (subject to Building and Fire Code requirements), while keeping parking away from the exterior walls of dwelling units as is the purpose of the ordinance.

Advisory Comments to the Applicant

- If granted, variances become 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.
- Improvements to the property are subject to Site Development Plan approval processes and appropriate permits from the City of Dover Department of Planning & Inspections and other agencies.
- Granting of a variance does not waive the applicant's requirement to adhere to all City Building and Fire codes when designing and constructing the project.
- The site plan depicts balconies which project from the main body of the building. The applicant previously stated that these would be redesigned so they are recessed into the building. Absent this redesign, a fourth variance for the building's front yard setback would be needed. Fire Code requirements for the site may also be impacted by these balconies.







GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Applicant responses to variance criteria	3
C	Site Plan (Applicant)	1 (24" x 32")



Title: Lands of David Miller Investments LLC
 Address: 127, 129, 133, & 135 Roosevelt Ave
 Parcel ID: ED-05-077.18-02-71.00-000, ED-05-077.18-02-72.00-000,
 and ED-05-077.18-02-73.00-000
 Zoning: RG-2 (General Residence Zone)
 Owner: David Miller Investments LLC
 Date: 12/5/2018

Legend

-  Subject Property
-  Dover Parcels
-  Zoning
-  2012 Buildings
-  Kent County Parcels
-  Dover Boundary





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November 29, 2018

Mrs. Dawn Melson-Williams, AICP
Principal Planner
City of Dover, Delaware

RE: Roosevelt Avenue Apartments

Dear Mrs. Melson-Williams:

Below, we are addressing the BOA AREA Variance requirements criteria:

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

The three parcels with four buildings under consideration for variance by the Board of Adjustments were recently unanimously approved for rezoning to RG2 by the Dover Planning Commission and Dover City Council. RG2 permits Multi-family apartment housing. Two of the buildings had previously been converted to apartment buildings.

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

The property lies in an area with an “eclectic” mix of uses. Multi-family housing is across the street to the east at the end of Roosevelt Avenue, west of the property is C-1 and C-4 zoning including a car wash and multi-tenant building, to the east is a manufactured housing community and to the south of Roosevelt Avenue is additional C-4 with Automobile dealerships. The area contains quite a mix of uses with an apparent shift from historic single family residences toward multi-family and commercial. The proposed redevelopment will follow this trend in making use of the two dilapidated residences as well as two other dilapidated buildings previously converted to Multi-family apartment buildings.

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

The applicant seeks to redevelop the properties as a single garden style apartment. The proposed structure contains 21 units. The parking required by the City is 2 ¼ spaces per unit, which parking drives the variance requests. The request for a variance in the lot coverage allows for adequate parking for the 21 units. The request for a variance in the percent of accessory buildings is for the purpose of permitting an upgraded amenity of covered parking. The final variance permits parking under a portion of the structure. None of the requested variances, if granted, would have any negative impact on surrounding properties and in fact, allows for construction of a higher quality project with amenities. It should be noted that parking under a structure is not unusual in the City, as examples can be found at the Schwartz Center for the Arts, Wesley College dorms as well as the office building housing the Attorney General and at the Courthouse.

Permitting the redevelopment of this dilapidated section of Roosevelt Avenue would in fact, represent a benefit to the neighboring properties.

4. Whether, if the restriction is not removed, the restriction would create unnecessary hardships 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.

The proposed redevelopment of those run down properties represent a significant improvement to an area of the City that badly needs such redevelopment.

The most significant requested variance, lot coverage ratio, permits the construction of a building containing 21 units. Without this variance the project would be limited to 11 units (or a request to eliminate much of the parking, which would have a negative impact on the surrounding properties). Absent a granting of this variance, the project is not economically viable and will be abandoned. The variance request more for accessory structure area is driven by the City's interpretation that covered parking is considered the same as a garage or storage shed and thus the limitations. The granting of this variance permits an attractive amenity to the project allowing it to be more marketable with higher probability of being commercially competitive and successful.

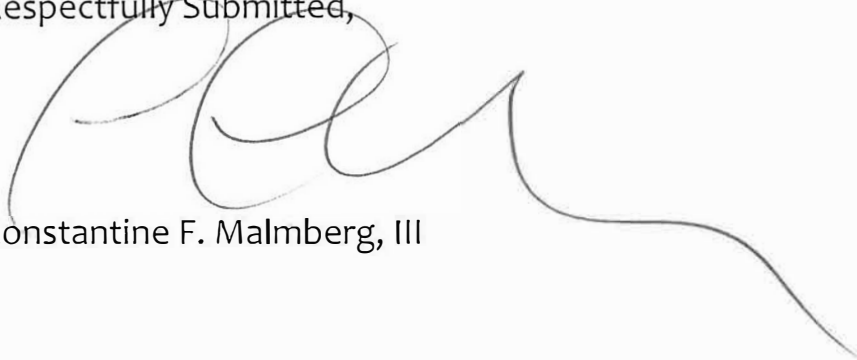
In, Kwik-Check Realty v. New Castle, several instructive points were made by the Court. The Court noted when considering an "area" variance cases (such as applicable here), the proper test in Delaware is the less burdensome one of the exceptional practical difficulty (as opposed to the higher standard of

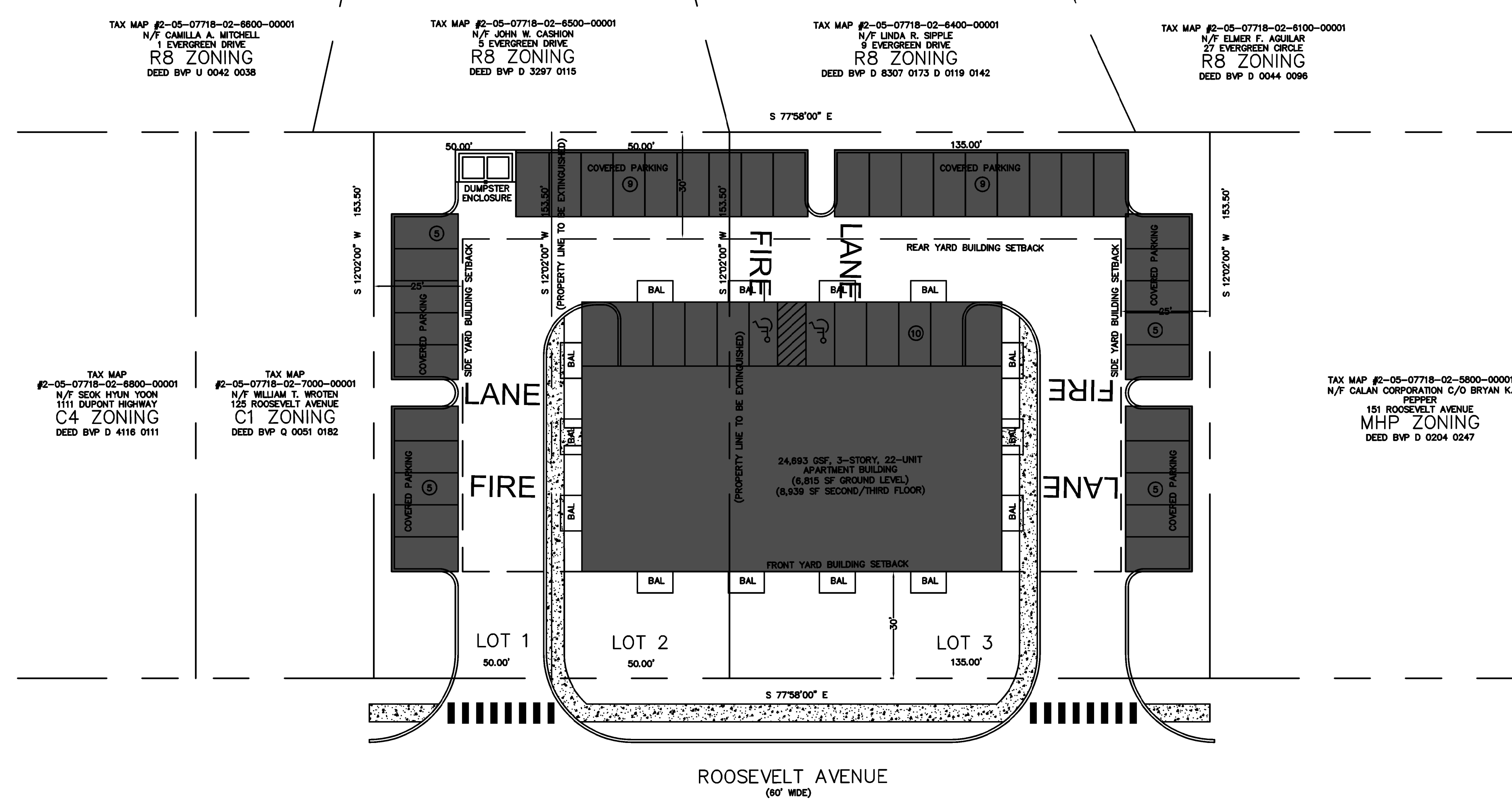
unnecessary hardship). The Court allowed that exceptional practical difficulty may be met, under appropriate weighing of the other impacts, in a desire to upgrade a business, remain competitive and increase responses herein to profits. The balanced approach adopted by the Court is reflected in question 3 and this question 4 which poses a balance between any negative impact on neighboring properties against either the benefit and potential negative impact of granting or not granting the variances.

It is respectfully submitted that the redevelopment of these properties, which granting of these variances permits, result in both a higher likelihood of a successful project as well as a significant improvement (rather than detriment) to the neighboring properties and the surrounding area.

Respectfully Submitted,

Constantine F. Malmberg, III

A handwritten signature in black ink, appearing to read 'C. Malmberg, III', with a long, sweeping horizontal stroke extending to the right.



SITE DATA

TAX PARCEL NUMBERS: 2-05-07718-02-7100-00001 (LOT 1), 2-05-07718-02-7200-00001 (LOT 2), 2-05-07718-02-7300-00001 (LOT 3)

OWNER NAME: MILLER INVESTMENTS, LLC
 OWNER ADDRESS: 1056 SOUTH STATE STREET, DOVER, DELAWARE 19901

EXISTING ZONING: R02
 EXISTING USE: RESIDENTIAL
 PROPOSED USE: GARDEN APARTMENTS (PERMITTED USE) - 21 UNITS
 PROPERTY ACREAGE (CONSOLIDATED): 0.828 ACRES (36,073 SF)

ZONING REGULATIONS

	REQUIRED	PROPOSED
MINIMUM LOT AREA PER DWELLING UNIT (SF)	1,700 (35,700)	36,073
MINIMUM LOT WIDTH (FT)	100	235.00
MINIMUM LOT DEPTH (FT)	125	153.50
MINIMUM FRONT YARD (FT)	30	30.00
MINIMUM SIDE YARD (FT)	25	58.50
MINIMUM REAR YARD (FT)	30	47.75
MAXIMUM BUILDING HEIGHT (FT)	40	40
MAXIMUM BUILDING HEIGHT (# OF STORIES)	3	3
MAXIMUM LOT COVERAGE (%)	60	75.7 VARIANCE REQUIRED
MINIMUM OPEN SPACE (SF)	5% LOT (1,804 SF)	8,780 SF

PARKING RATIONALE

REQUIRED OFF-STREET PARKING: 2 SPACES PER DWELLING UNIT + 1 SPACE FOR EVERY 200 SF OF OFFICE + 0.25 SPACES PER DWELLING UNIT FOR VISITORS = (2*21) + (1*10200) + (0.25*21) = 48

PROPOSED OFF-STREET PARKING: 2 (1 MUST BE VAN ACCESSIBLE) = 2 (BOTH ARE VAN ACCESSIBLE)

REQUIRED HANDICAP PARKING: 1 PER 20 PROPOSED OFF-STREET PARKING SPACES = 3

REQUIRED BICYCLE PARKING: 2

PROPOSED BICYCLE PARKING: 2

REQUIRED DUMPSTERS: 2

PROPOSED DUMPSTERS: 2

ACTIVE RECREATION CALCULATIONS

PER ARTICLE 5, SECTION 10.514 ("RESIDENTIAL DEVELOPMENTS OF TEN (10) OR FEWER ACRES WITH A DENSITY OVER SIX UNITS PER ACRE")

REQUIRED ACTIVE RECREATION SPACE: 150 SF PER DWELLING UNIT OR 10,000 SF, WHICHEVER IS GREATER = 3,150 SF (150 * 21) OR 10,000 SF = 10,000 SF

PROPOSED ACTIVE RECREATION SPACE: FEE-IN-LIEU

- SUPPLEMENTARY REGULATIONS (ARTICLES 5 & 6)**
- ACCESSORY BUILDINGS MAY BE LOCATED IN ANY REQUIRED SIDE OR REAR YARD PROVIDED SUCH BUILDINGS SHALL NOT EXCEED 15 FEET IN HEIGHT, SUCH BUILDINGS SHALL BE SET BACK FIVE FEET FROM ANY LOT LINE AND SHALL NOT BE LOCATED LESS THAN TEN FEET FROM AN ADJOINING PRINCIPAL STRUCTURE, AND SUCH BUILDINGS IN THE AGGREGATE SHALL NOT OCCUPY MORE THAN 30 PERCENT OF THE AREA OF THE REQUIRED REAR AND SIDE YARD. VARIANCE REQUIRED.
 - NO ACCESSORY BUILDING SHALL PROJECT NEARER TO THE STREET ON WHICH THE PRINCIPAL BUILDING FRONTS THAN SUCH PRINCIPAL BUILDING.
 - A ROOFED-OVER BUT UNENCLOSED PROJECTION IN THE NATURE OF AN ENTRY, PORTICO OR AWNING NOT MORE THAN EIGHT FEET WIDE AND EXTENDING NOT MORE THAN SIX FEET INTO THE REQUIRED FRONT YARD SHALL BE EXEMPT FROM THE REQUIREMENTS OF ARTICLE 5.
 - NO PARKING SPACE SHALL BE LOCATED IN ANY FRONT YARD OR WITHIN THREE FEET OF ANY LOT LINE IN SIDE OR REAR YARD.
 - THE PARKING OF MOTOR VEHICLES WITHIN 15 FEET OF ANY WALL OR PORTION THEREOF, IS PROHIBITED. VARIANCE REQUIRED.

- LIST OF VARIANCES**
- FROM THE MAXIMUM REQUIRED LOT COVERAGE OF 60%. (PROPOSING 75.7%)
 - FROM THE REQUIREMENT THAT THE TOTAL AREA OF ACCESSORY BUILDINGS MAY NOT EXCEED 30% OF THE AGGREGATE AREA OF THE SIDE AND REAR YARDS. (PROPOSING 56.1%)
 - FROM THE REQUIREMENT THAT OFF-STREET PARKING MAY NOT BE PROPOSED WITHIN 15 FEET OF A WALL. (PROPOSING 10 OFF-STREET PARKING SPACES DIRECTLY ADJACENT TO BUILDING - COVERED PARKING)

Pennoni

PENNONI ASSOCIATES, INC.
 Christiana Executive Campus
 121 Continental Drive, Suite 207
 Newark, DE 19713-4310
 T 302.655.4451 F 302.654.2895

ALL DIMENSIONS MUST BE VERIFIED BY CONTRACTOR AND OWNER MUST BE NOTIFIED OF ANY DISCREPANCIES BEFORE PROCEEDING WITH WORK

Exhibit C

BOARDWALK APARTMENTS
 127, 128 & 130/135 ROOSEVELT AVENUE
 EAST DOVER HUNDRED, CITY OF DOVER, KENT COUNTY, DELAWARE

SITE PLAN
 MILLER INVESTMENTS, LLC
 1056 SOUTH STATE STREET
 DOVER, DELAWARE 19901

NO.	DATE	NO.	REVISIONS	BY

ALL DOCUMENTS PREPARED BY PENNONI ASSOCIATES ARE INSTRUMENTS OF SERVICE IN RESPECT OF THE PROJECT. THEY ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY OWNER OR OTHERS ON THE EXTENSIONS OF THE PROJECT OR ON ANY OTHER PROJECT. ANY REUSE WITHOUT WRITTEN VERIFICATION OR ADAPTATION BY PENNONI ASSOCIATES FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT OWNERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO PENNONI ASSOCIATES. OWNER SHALL INDEMNIFY AND HOLD HARMLESS PENNONI ASSOCIATES FROM ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES ARISING OUT OF OR RESULTING THEREFROM.

PROJECT	MINV18002
DATE	2018-10-12
DRAWING SCALE	1"=20'
DRAWN BY	BRD
APPROVED BY	DDB
SHEET	1 OF 1

U:\Account\MINV18002 - Roosevelt Avenue Apartments\DESIGN - SHEET 050A - Site Plan
 PLOTTED: 10/11/2018 10:57 AM BY: Douglas Berry PROJECT #18100
 PLOTTED: Pennoni K2B.dwg
 PLOTTED: Pennoni K2B.dwg



**City of Dover
Board of Adjustment**

December 19, 2018

V-18-12

Location: 1738 Forrest Avenue, Dover, DE

Applicant: Louise Warren on Behalf of Dover Christian Church

Owner: Dover Christian Church Inc.

Tax Parcel: ED-05-075.00-01-04.00-000

Application Date: November 15, 2018

Present Zoning: R-10 (One Family Residence Zone)
COZ-1 (Corridor Overlay Zone)

Present Use: Place of Public Assembly

Proposed Use: No Change

Reviewed By: Eddie Diaz, Planner I

Variance Type: Area Variance

Variance Requested: Variance to increase the maximum allowed sign area by 20 SF in order to permit a 32 SF monument sign.

Previous Applications

This property is the site of a Conditional Use Site Plan (C-13-11) for a then-9,600 SF church originally approved by the Planning Commission on October 21, 2013. The project was granted a one-year extension of approval by the Commission on August 17, 2015, before coming in to the Commission again on March 21, 2016 for a series of extensive plan revisions, principally a reduction in the building size to 3,850 SF. The plan attained Final Plan Approval on July 21, 2016, and a permit for construction was approved on September 16, 2016. Construction on the church continued until June 20, 2018, when a Certificate of Occupancy was issued for the building. The Sign Permit Application for the sign subject to this variance was submitted to the Planning Office on September 10, 2018.

A Site Plan showing how the site was ultimately developed is included in Exhibit F. It shows the church building, the parking lot, the site entrance, the sidewalks, the bioretention facility, and the approximate location of the proposed sign.

Project Description

The property is located at 1738 Forrest Avenue and is occupied by Dover Christian Church, a newly-established place of worship. Before the church was constructed the property was occupied by a one-family detached residence, now demolished. The use of the property as a place of worship is a Conditional Use within the R-10 (One Family Residence) Zone.

The sign the applicant proposes is a monument sign. It would be located on frontage of an Urban Minor Arterial street and within a residential zoning district. A rendering of the proposed sign is given in Exhibit D. The maximum size for such a sign, under the *Zoning Ordinance* Article 5 §4.7 is 12 SF, but the applicant would like to have a sign that is 32 SF in size.

Note that the 32 SF sign area applies only to the main sign panel and the 3 lines of 8-inch changeable copy on the body of the sign. The cross and outline of an open book at the top of the sign are architectural features not required to be included in the sign area. Also of note, the 3 lines of changeable copy meet the restrictions on changeable sign area given in *Zoning Ordinance* Article 5 Section 4.4(E), representing less than 70% of the sign face. The sign is currently depicted in Exhibit D as being 8 feet tall, but the applicant has agreed to reduce the height of the sign, so it meets the 7-foot tall limit under the zoning. Based on the compliance of these other factors of the sign design, the variance for 32 SF of sign area is the only variance required for this sign.

Adjacent Zoning and Land Use

The subject property is zoned R-10, and it lies also within the COZ-1 (Corridor Overlay Zone). This overlay zone includes regulations for building and site design that apply to new development, but there are no provisions in it directly related to signage.

The property lies on the south side of Forrest Avenue, near to the City limits. The nearest cross-street is Dover High Drive. Adjacent to the east of the property is the site of the Dover High School, also zoned R-10. Adjacent to the west and south is property of the Leander Lakes

Apartments, zoned RM-2 (Medium Density Residence Zone). West of the apartment property is land belonging to another church known as Destiny Christian Church. This property is also zoned R-10. Finally, across the street from Dover Christian Church are a handful of residential and agricultural uses as well as a building contractor's yard. These properties are located in Kent County and are zoned AC (Agricultural Conservation) and IG (Industrial General) respectively.

A Zoning Map exhibit (Exhibit A) prepared by staff is attached to this report showing the subject property location and surrounding zoning.

Code Citations

The City of Dover sign regulations found in *Zoning Ordinance* Article 5 §4 determine the allowable number, type and dimensional characteristics of signage on a property according to:

- The type of use
- Proximity to residential uses
- Classification of roads on which the property has frontage

The subject property is considered a conditional, non-residential use located in a residential zone as defined by Article 3 §1.14 of the *Zoning Ordinance*. R-10 is among the residential zones:

Residence zones: R-20, R-15, R-10, R-8, R-7, RM-1, RM-2, RG-1, RG-2, RG-3, RG-4, RG-5, RGO, or MH zone.

The City of Dover sign regulations distinguish three (3) types of roads for purposes of determining allowable signage. Forrest Avenue is an "Urban Minor Arterial" as defined by Article 5 §4.3.

The entire Sign Table from *Zoning Ordinance* Article 3 §4.7 is presented in Exhibit B. The section pertaining to this project is at the top of the table and colored with a light blue background. This section is what applies to "Residential Uses and Nonresidential Uses in Residential Districts" as shown in the vertical text on the left. It shows the maximum number, sign area, height, and minimum required setbacks and exclusion zones for signs on "All Streets," which would include Urban Minor Arterials.

Referring to the listing of specific uses found in this section, one finds that the Code does not specifically address here places of worship as a Conditional Use. Conditional Uses including places of worship are instead addressed in the second section of the table colored in light purple, "Nonresidential Uses Adjacent to Residential Districts or Uses." Under this section a 32 SF monument sign would be permitted; however, this section would only be applicable if the church was in a nonresidential zone. Because the church is in a residential zone, it must use the 12 SF limit given for the only nonresidential use specified in the light blue section of the table (professional office).

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 criteria. The applicant submitted new responses in conjunction with their request for a Revised variance.

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

Applicant Responses:

“The property; Dover Christian Church is zoned R10 which allows us to have a 12 square foot sign. However, the code allows a 32 square foot sign in all other zoning districts that are adjacent to residential.”

Staff Response:

As previously noted by Staff, places of worship are not expressly specified in the section of the Sign Table in Exhibit B pertaining to this property, but Staff would generally interpret the permitted maximum sign area to be 12 SF. The applicant correctly notes that if their property were merely adjacent to residential instead of zoned residential, they would be able to install the sign they want without a variance.

Places of worship are permitted in residential districts through a Conditional Use review process. Such uses are consistent with the nature of the R-10 zone, and it is common for churches to be found in residential zones around the City.

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

Applicant Responses:

“The 32 sq ft sign will not change the character of the surrounding area. The properties near Dover Church Christian all have signs that are larger than 32 sq ft, such as Dover High School, Destiny Church and a large pole sign across the road.”

Staff Response:

The limits on sign area imposed by code are parcel-specific according to road frontage, type of use, and proximity to residential uses, so staff do not look at existing signs on neighboring properties when determining what the limits are for signage. However, it is worth noting here that the Dover Christian Church property is the only parcel in the immediate area currently subject to a limitation of 12 SF. The parcels across the street in Kent County are not subject to the City’s sign regulations, and indeed one property owner has taken advantage of this to put up a billboard. The Leander Lakes Apartments, as a multi-family residential use, are permitted a 32 SF monument sign. The Dover High School is subject to a Unified Comprehensive Sign Plan (US-14-01) approved by the Planning Commission, which allows them among other signs the 131 SF monument sign at the corner of Forrest Avenue and Dover High Drive. Finally, Destiny Christian Church, while also limited to 12 SF, currently enjoys a nonconforming 32 SF sign put up before its property was annexed into the City. This other church would be limited to a 12 SF sign if they wanted to replace their current sign.

Photos of some of the surrounding signs taken by the applicant are shown in Exhibit G.

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

Applicant Responses:

“No. All signs within 200 feet are larger than 32 square feet. Dover High School, Destiny Church and a large pole sign.”

Staff Response:

Staff does not believe that the proposed sign would have a negative impact on neighboring properties or uses. Though there are several residential uses in the surrounding area, most of them are set back much farther from Forrest Avenue than the church, meaning residents would not typically see the sign from their houses or apartments. Staff estimates that the nearest residence would be about 200 feet from the sign.

The sign should also not set a precedent for other properties in the area to request larger signs. Between the apartment complex and the high school, the area within City limits is very well built out and little future development is expected. Meanwhile the existing uses in the area already have signs that are the same size or larger than the applicant's requested sign; none of these larger signs were previously authorized through granting of a variance.

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 Responses:

"If the restriction is not removed it will create a hardship on Dover Christian Church in promoting church activities for the community, as well as identifying who we are. The property is located on Forrest Ave in Dover which is a busy street. Oncoming traffic would have a difficult time seeing the name of the Church and the information on the message board.

The allowable 12 square feet sign will only allow a two (2) line message board with 6 inch lettering with approximately 20 characters. Whereas the 32 square feet sign will have a three (3) line message board 8 inch lettering with approximately 60 characters.

The Name of Dover Christian Church on a 12 square feet sign, is 3.6" which is readable at a distance of 30ft. Whereas the 32 square feet sign, is 6.2" readable distance of 60ft."

Staff Response:

In the present case staff agrees with the applicant that the maximum size of the sign presents an exceptional practical difficulty, because the small size of the letters at 12 SF would make it difficult for oncoming motorists to read the sign. Most residentially-zoned places of worship in Dover are along local streets which have a much lower speed limit than Forrest Avenue. If the letters on the sign are too small to see from a fast vehicle on the road, the sign will likely prove a distraction to passing motorists rather than a useful guidepost.

It is also worth noting that the monument sign is proposed to be set back 5 feet from the edge of the right-of-way, which is the minimum setback for such a sign under the zoning. As such the sign cannot be made more readable by moving it closer to the road. The size and placement also make it useful for passing pedestrians.

Though not mentioned in the applicant's written response, staff and the applicant did discuss the possibility of using the property's wall sign allowance, either instead of a monument sign or to supplement a 12 SF sign. The applicant's response to this was that the church was designed with very little exterior wall space for signs. The 16 SF

limitation on the two wall signs they could have would not be much better for visibility than a 12 SF monument sign, given the distance of the church building from the street. Staff believes the proposed sign area at 32 square feet would not be out of character with the use of the property as a place of worship, or with the Urban Minor Arterial road type. Many such places throughout Dover have similar signs that display the name of the facility, hours, and also include a changeable sign area to display messages, announcements of events, etc.

Variance Recommendations:

Staff recommends approval of the variance to permit a 32 SF monument sign, for reasons as follows:

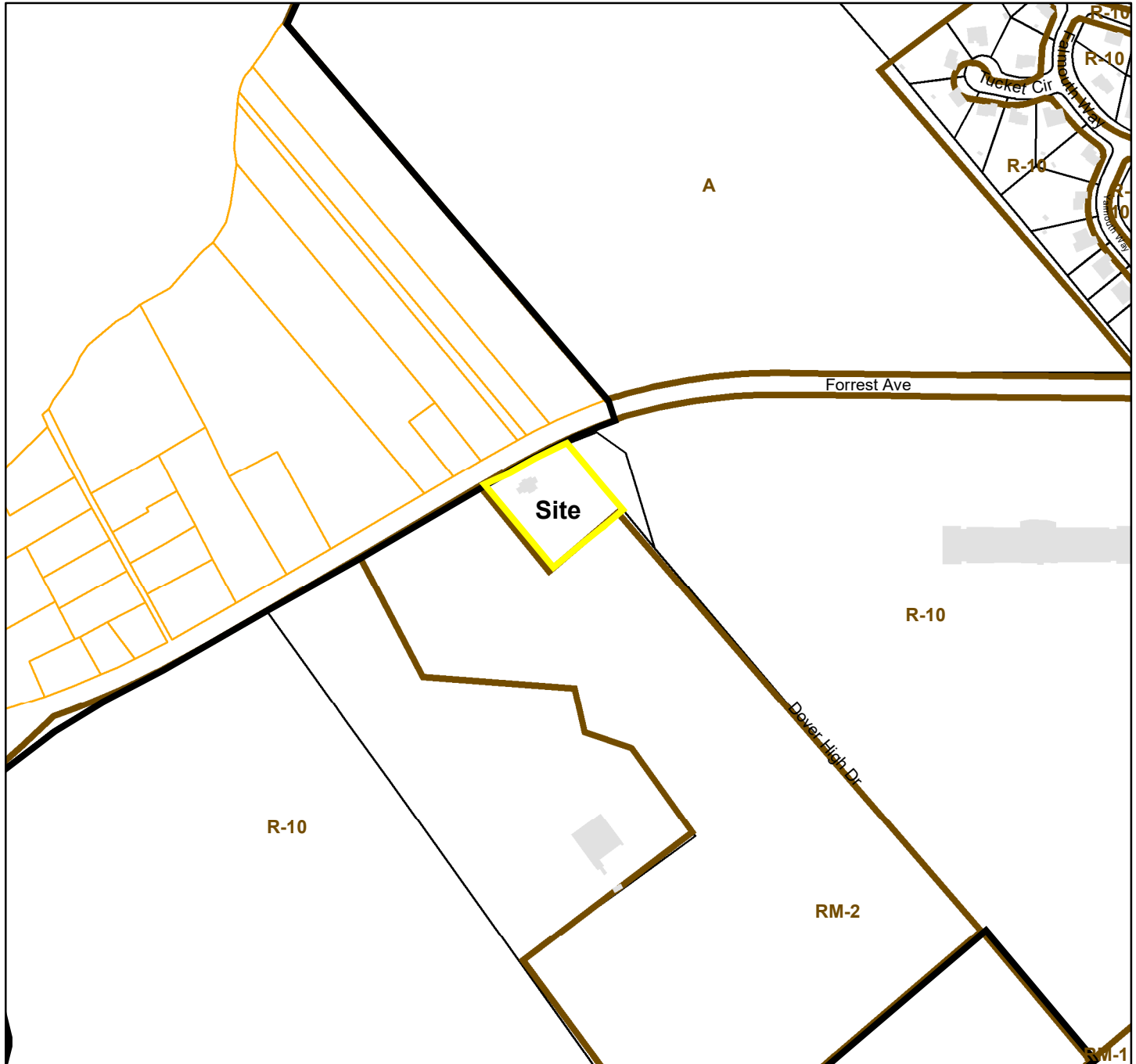
- The proposed sign is in character with the immediate surroundings and would not seriously impact surrounding uses.
- The sign regulations are generally based on a relationship between the classification of street and its typical traffic conditions. Staff believes that a 32 square feet monument sign presents a legible sign design that could be safely read but not be distracting. Limiting the sign area to 12 SF may impose a hardship on the property because such a sign would be undersized relative to the prevailing speeds on the street.
- The restriction placed on the property is currently unique to it, with other properties nearby having avoided a 12 SF limitation through legal means despite their same or similar zoning.

Advisory Comments to Applicant:

- Variances become 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 of variance approvals.
- In accordance with staff's agreement with the applicant, the submitted Sign Permit Application will be amended by staff to reduce the base of the sign by one foot, thereby decreasing the overall height of the sign from 8 feet to 7 feet. The permit will be issued if the variance application is successful, and will be subject to the provisions of the variance granted.







GUIDE TO ATTACHMENTS

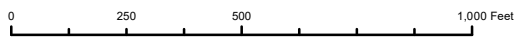
Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Sign Table reproduced from <i>Zoning Ordinance</i> Article 5 §4.7 (Staff)	1
C	Applicant's responses to variance criteria	1
D	Renderings of proposed sign (applicant)	1
E	Plot plan of property from before church development (applicant)	1
F	Site Plan sheet excerpted from C-13-11 Final Plan (staff)	1 (11"x17")
G	Photos of nearby signs (applicant)	1



Title: Lands of David Miller Investments LLC
Address: 127, 129, 133, & 135 Roosevelt Ave
Parcel ID: ED-05-077.18-02-71.00-000, ED-05-077.18-02-72.00-000,
and ED-05-077.18-02-73.00-000
Zoning: RG-2 (General Residence Zone)
Owner: David Miller Investments LLC
Date: 12/5/2018

Legend

-  Subject Property
-  Dover Parcels
-  Zoning
-  2012 Buildings
-  Kent County Parcels
-  Dover Boundary



Zoning Ordinance , Article 5 §4.7

SIGN TABLE										
Use		Road Type	Permitted Signs							
	Specific		Sign Type	Number Permitted	Max. Size	Max. Height	% of Total Wall Area	Setback (R.O.W.)	Exclusion Zone	
Residential Uses and Nonresidential Uses in Residential Districts	Single-Family Detached Semi-Detached	All Streets	Signs permitted in § 4.5 only							
	Professional Office	All Streets	Post or Monument	1/entrance	12 S.F.	7 feet	N/A	5 feet	20 feet	
			Wall	1/frontage	16 S.F.	N/A	< = 15%	N/A	N/A	
	Subdivisions Multi-Family Residential Uses Mobile Home Parks	All Streets	Wall &	1/frontage	32 S.F.	N/A	< = 15%	N/A	N/A	
			Monument or Post and Panel	2/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet	
Nonresidential Uses Adjacent to Residential Districts or Uses	Places of Worship	Urban Principal Arterial	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A	
	Daycare Centers		Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	10 feet	20 feet	
			Post** &	1/frontage	16 S.F.	7 feet	N/A	5 feet	5 feet	
	Approved Conditional Uses		Pylon*	1/frontage	32 S.F.	30 feet	N/A	30 feet	50 feet	
	Educational/ Institutional	Urban Minor Arterial	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A	
			Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet	
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet	
			All Other Approved Nonresidential Uses	Urban Local/ Collector	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A
	Monument or Post and Panel OR	1/entrance			32 S.F.	7 feet	N/A	5 feet	20 feet	
	Post**	1/frontage			16 S.F.	7 feet	N/A	5 feet	10 feet	
	Nonresidential Uses in Nonresidential Districts	Nonresidential Uses	Urban Principal Arterial	Wall &	2/frontage	No max	N/A	< = 15%	N/A	N/A
				Monument or Post and Panel &	1/entrance	100 S.F.	10 feet	N/A	10 feet	20 feet
Pylon OR *				1/frontage	100 S.F.	30 feet	N/A	15 feet	50 feet	
Pylon*				1/frontage	150 S.F.	30 feet	N/A	31 feet	50 feet	
Urban Minor Arterial			Wall &	2/frontage	64 S.F.	N/A	< =15%	N/A	N/A	
			Monument or Post and Panel OR	1/entrance	64 S.F.	7 feet	N/A	5 feet	20 feet	
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet	
Urban Local/ Collector			Urban Local/ Collector	Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
				Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
				Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet

* Denotes that an additional wall sign may be permitted/added in lieu of a freestanding pylon sign.

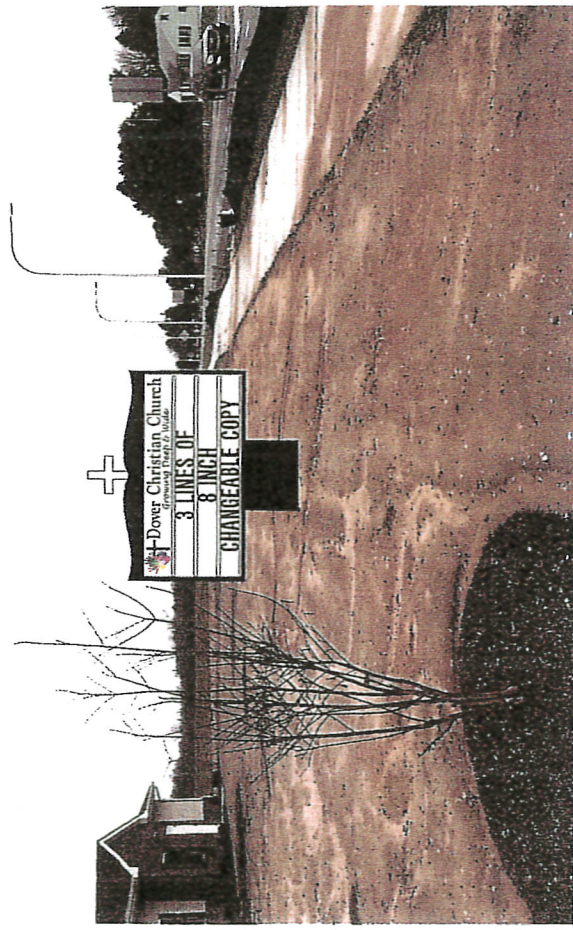
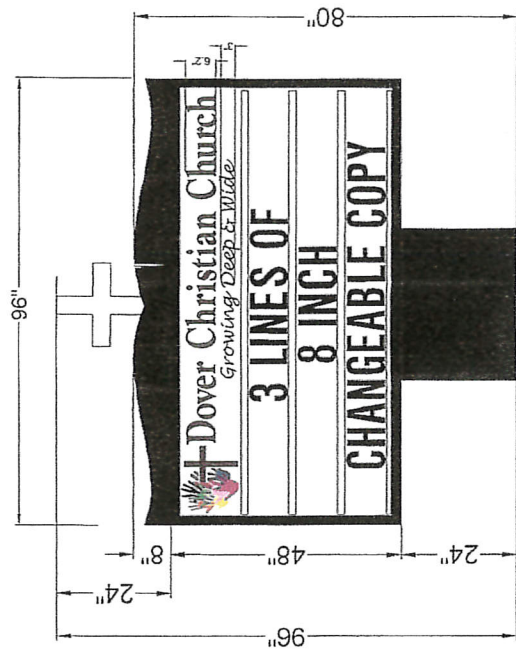
** Post sign would be in lieu of a monument sign or post and panel sign.

Criteria:

1. The property; Dover Christian Church is zoned R10 which allows us to have a 12 square foot sign. However, the code allows a 32 square foot sign in all other zoning districts that are adjacent to residential.
2. The 32 sq ft sign will not change the character of the surrounding area. The properties near Dover Church Christian all have signs that are larger than 32 sq ft, such as Dover High School, Destiny Church and a large pole sign across the road.
3. No. All signs within 200 feet are larger than 32 square feet. Dover High School, Destiny Church and a large pole sign.
4. If the restriction is not removed it will create a hardship on Dover Christian Church in promoting church activities for the community, as well as identifying who we are. The property is located on Forrest Ave in Dover which is a busy street. Oncoming traffic would have a difficult time seeing the name of the Church and the information on the message board.

The allowable 12 square feet sign will only allow a two (2) line message board with 6 inch lettering with approximately 20 characters. Whereas the 32 square feet sign will have a three (3) line message board 8 inch lettering with approximately 60 characters.

The Name of Dover Christian Church on a 12 square feet sign, is 3.6" which is readable at a distance of 30ft. Whereas the 32 square feet sign, is 6.2" readable distance of 60ft.



ALL DESIGNS PROPERTY OF
Signs

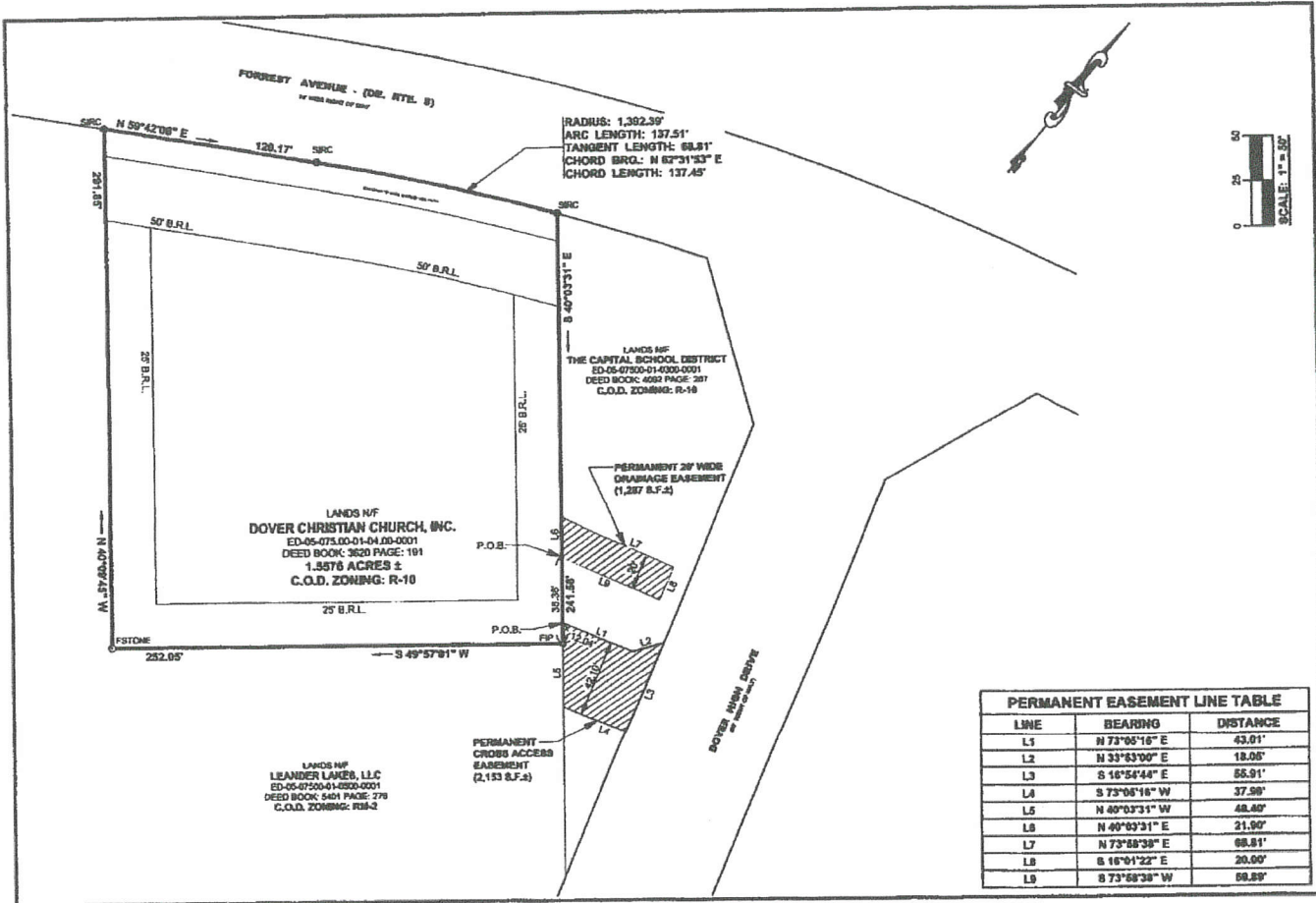
DESIGN BY: JY

DATE: 6/5/18

DESCRIPTION: Dover Christian Church Monument

APPROVED BY:

32sq ft



PERMANENT EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 73°05'16" E	43.01'
L2	N 33°53'00" E	18.05'
L3	S 16°54'44" E	85.91'
L4	S 73°05'16" W	37.59'
L5	N 40°03'31" W	48.40'
L6	N 40°03'31" E	21.90'
L7	N 73°58'38" E	68.81'
L8	S 16°01'22" E	20.00'
L9	S 73°58'38" W	68.89'

ARCHITECTURE
ENGINEERING
SURVEYING
DOVER, DE
302
JOHN W. MOHRAN, INC.
P.O. BOX 774-7900
DOVER, DE 19904
TEL: 302.754.7900
FAX: 302.754.7900

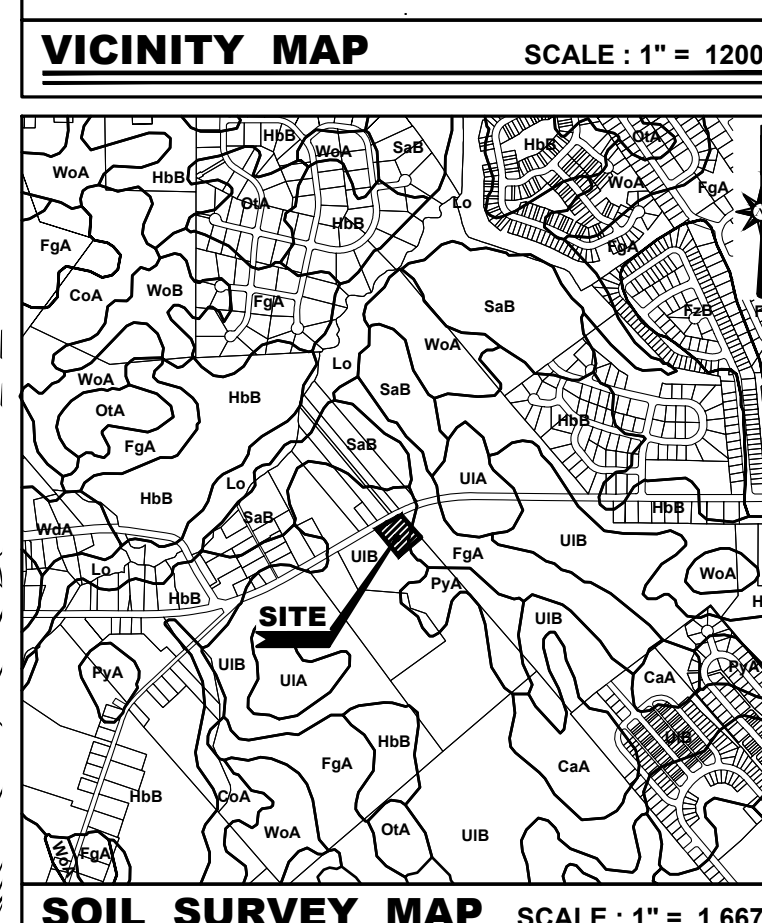
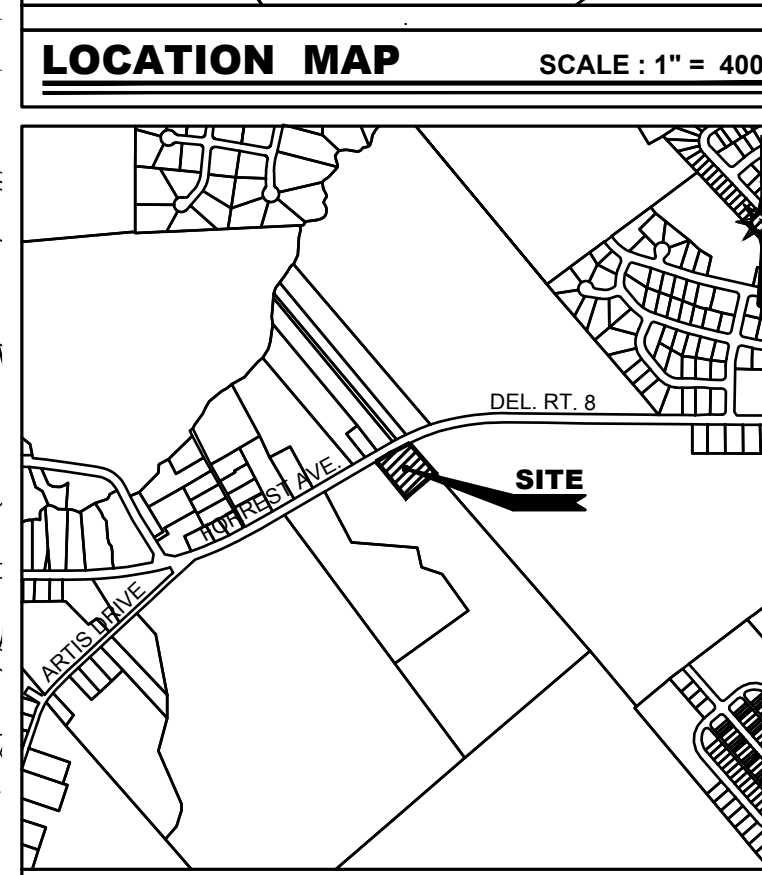
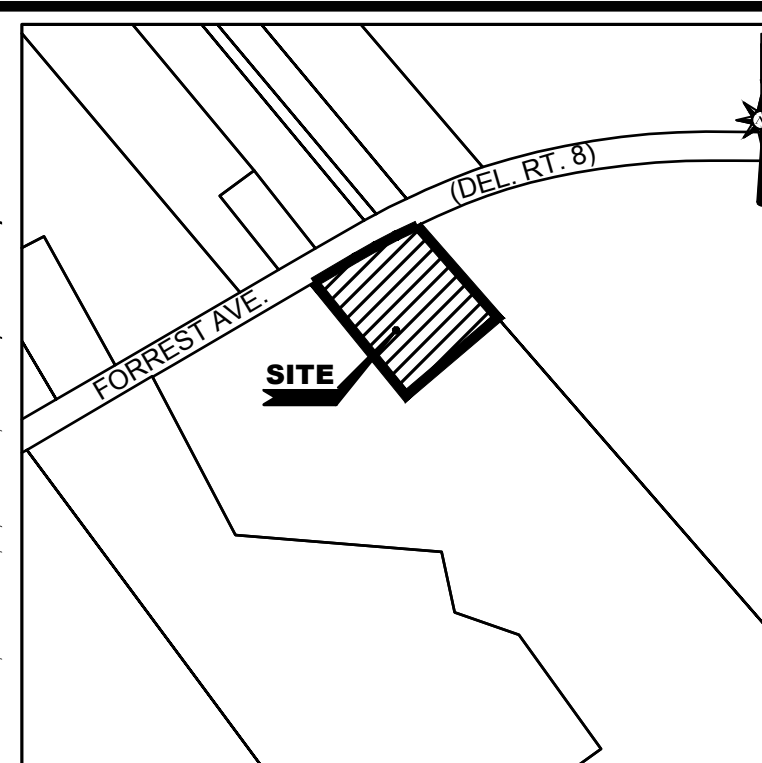
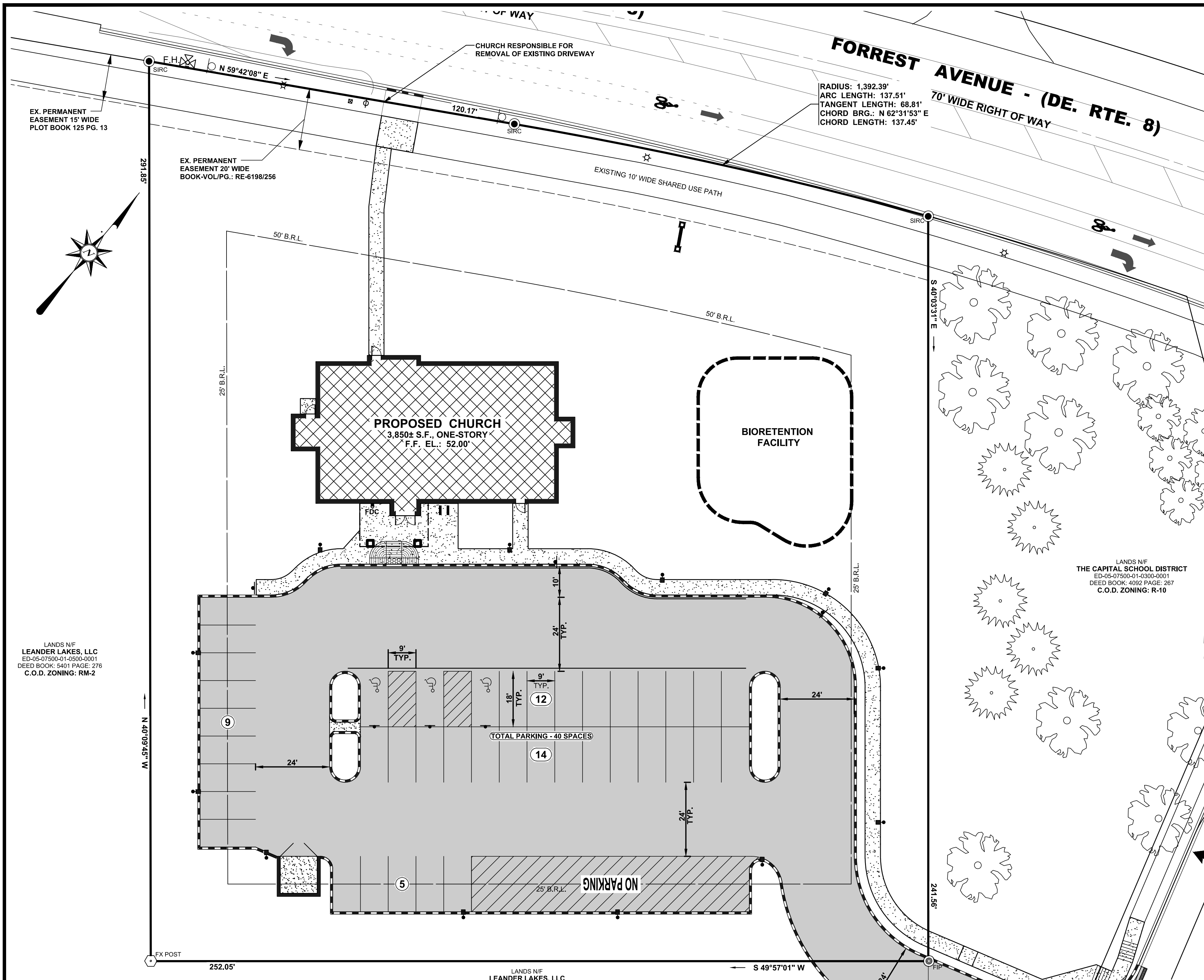
EXHIBIT A

PERMANENT EASEMENT
ACROSS THE LANDS OF THE CAPITAL SCHOOL DIST.
TO BENEFIT THE DOVER CHRISTIAN CHURCH, INC.
CITY OF DOVER
KENT COUNTY / DELAWARE

DATE: 11-14-13
SCALE: 1" = 50'
DATE: 11-14-13
DRAWN BY: M.L.L.

NOV 20 2013 7:20 AM

Dover Christian Church



SITE DATA	
1. OWNER OF RECORD:	DOVER CHRISTIAN CHURCH, INC. C/O WALTER GORDON, TRUSTEE 1156 SOUTH GOVERNORS AVENUE DOVER, DELAWARE 19904
2. ENGINEER / SURVEYOR:	BECKER MORGAN GROUP INC. 309 SOUTH GOVERNORS AVE. DOVER, DE 19904 (302) 734-7950
3. PROPERTY MAP NUMBERS:	ED-05-075-00-01-04-00-000
4. ZONING CLASSIFICATION:	EXISTING: R-10 / COZ-1 PROPOSED: R-10 / COZ-1
5. DEED SUMMARY:	DEED BOOK: 3629 PAGE: 191
6. PRESENT USE:	RESIDENTIAL HOUSE
7. PROPOSED USE:	CHURCH
8. PROPERTY AREA:	67,850 S.F. (1.5576 ACRES ±)
9. IMPERVIOUS COVERAGE:	EXISTING: 4,180 S.F. (0.10 AC) - 0.06% PROPOSED: 32,855 S.F. (0.75 AC) - 48.15% MAXIMUM LOT COVERAGE: 75%
10. SETBACKS:	R-10 (NON-RESIDENTIAL) COZ-1 FRONT: NONE SIDE: 25 FT. (25' TOTAL FOR BOTH) NONE REAR: 25 FT. NONE
11. BUILDING:	EXISTING: 1,232 S.F. (TO BE REMOVED) PROPOSED: 3,850 S.F. HEIGHT ALLOWED: 35' HEIGHT PROPOSED: 35' LOT COVERAGE ALLOWED: 20% LOT COVERAGE PROPOSED: 10% CONSTRUCTION TYPE: TYPE I (000) (NFPA CONST. TYPE) SPRINKLER SYSTEM: YES
12. UTILITIES (SOURCE):	WATER: CITY OF DOVER SEWER: CITY OF DOVER GAS: CHESAPEAKE UTILITIES ELECTRIC: CITY OF DOVER
13. PREDOMINANT SOILS:	FgA - FALLSINGTON LOAM 0 TO 5 PERCENT SLOPES UB - UNICORN LOAM, 2 TO 5 PERCENT SLOPES
14. PARKING CALCULATIONS:	EXISTING: 2 REQUIRED: 1 PER 4 SEATS = 128 / 4 = 32 PROPOSED: 40 SPACES HANDICAPPED PARKING REQUIRED: 3 SPACES (1 VAN) BICYCLE PARKING REQUIRED: 3 SPACES (1 VAN) BICYCLE PARKING PROVIDED: 40 / 20 = 2 = 2 LOADING BERTHS REQUIRED: 4 FUTURE PERMIT SUBMISSION: 1
15. LOADING CALCULATIONS:	LIGHTING SHALL BE 1.5 FOOT CANDLES MIN. AT GRADE
16. SIGNAGE:	EX. WOODLAND AREA: 0 S.F. WOODLANDS TO BE CLEARED: 0 S.F. (0%) TOTAL WOODLANDS REMAINING: 0 S.F. (0%) TOTAL NON-WOODLAND AREA: 67,850 S.F. / 3000 = 22.6 EXISTING TO BE RETAINED: 23 TREES REQUIRED PROPOSED TREES: 0 TOTAL TREES: 23
17. OUTDOOR LIGHTING:	VERTICAL: NAVD88 HORIZONTAL: NAD83
18. TREE PRESERVATION:	PLUMBING FIXTURES UNITS: 16 PEAK FLOWS: 2.31 GPM AVERAGE DAILY FLOWS: 0.52 GPM VELOCITY: 2.88 FPS
19. SURVEY BENCHMARK:	NGS MONUMENT: COLLEGE
20. WATER DEMANDS:	
21. SANITARY SEWER DEMANDS:	

GENERAL NOTES:

- TOPOGRAPHIC SURVEY DATA SHOWN HEREON WAS PREPARED BY BECKER MORGAN GROUP, DOVER, DE, IN JUNE 2012. VERTICAL DATUM IS BASED ON NAVD 88. HORIZONTAL DATUM IS BASED ON DELAWARE STATE PLANE NAD 83.
- THE EXISTING UTILITIES SHOWN WERE TAKEN FROM THE BEST AVAILABLE RECORDS. THE CONTRACTOR SHALL CONTACT MISS UTILITY OF DELMARVA (1-800-282-8555) TO VERIFY THEIR EXACT LOCATION PRIOR TO THE START OF ANY CONSTRUCTION. ANY DAMAGE INCURRED TO ANY UTILITIES SHALL BE REPAIRED IMMEDIATELY AT THE CONTRACTOR'S EXPENSE. IF THE CONTRACTOR RELIES ON THE UTILITY LOCATIONS SHOWN HEREON, HE DOES SO AT HIS OWN RISK AND WILL NOT BE ENTITLED TO ADDITIONAL COMPENSATION DUE TO TIME DELAYS FROM SAID RELIANCE.
- THE PROJECT AREA IS NOT LOCATED WITHIN THE ONE HUNDRED YEAR FLOOD PLAIN, BASED ON FIRM MAP 10001C0162H, PANEL 162 OF 625, DATED MAY 5, 2003.
- BECKER MORGAN GROUP, INC. CERTIFIES THAT THERE ARE NO FRESH WATER WETLANDS LOCATED ON THE PROJECT SITE.
- ALL ROADS, PARKING AND OTHER PAVED AREAS WILL BE PRIVATELY OWNED AND MAINTAINED AND ARE NOT INTENDED FOR DEDICATION.
- DELAWARE REGULATIONS PROHIBIT THE BURIAL OF CONSTRUCTION DEMOLITION DEBRIS, INCLUDING TREES AND STUMPS ON CONSTRUCTION SITES. ANY SOLID WASTE FOUND DURING EXCAVATION MUST BE REMOVED AND PROPERLY DISCARDED.
- ALL HANDICAPPED PARKING DEMARCATION, STALLS, AND BUILDING ACCESSIBLE ROUTES SHALL COMPLY WITH THE "AMERICAN WITH DISABILITIES ACT" AND ANSI A117.1-1998 "ACCESSIBLE AND USABLE BUILDINGS AND FACILITIES".
- THIS DRAWING DOES NOT INCLUDE NECESSARY COMPONENT FOR CONSTRUCTION SAFETY. ALL CONSTRUCTION MUST BE DONE IN COMPLIANCE WITH THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 AND ALL RULES AND REGULATIONS THERE TO APPLICABLE.
- BEFORE THE CONTRACTOR CAN BEGIN CONSTRUCTION HE MUST OBTAIN THE PROPER PERMITS AND/OR APPROVALS FROM THE CITY OF DOVER (C.O.D.), DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC), DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT), KENT CONSERVATION DISTRICT (KCD) AND ALL APPROPRIATE STATE AND COUNTY AGENCIES.
- ALL CONSTRUCTION METHODS AND MATERIALS SHALL BE ACCORDING TO THE CITY OF DOVER PUBLIC WORKS DEPARTMENT AND THE STATE OF DELAWARE (DELDOT) STANDARDS AND CONSTRUCTION SPECIFICATIONS.
- ALL FIRE LANE DEMARCATION AND FIRE LANE SIGNS SHALL BE IN ACCORDANCE WITH ALL STATE FIRE PREVENTION REGULATIONS.
- ALL WORK WITHIN CITY MAINTAINED ROAD RIGHT-OF-WAYS SHALL MEET THE REQUIREMENTS AS SET FORTH IN THE CURRENT REVISION OF THE STANDARD SPECIFICATION FOR ROAD AND BRIDGE CONSTRUCTION, BY THE DELAWARE DEPARTMENT OF TRANSPORTATION AND ALL CITY OF DOVER REQUIREMENTS.
- TRAFFIC AND SAFETY CONTROL SHALL BE MAINTAINED DURING CONSTRUCTION IN CONFORMANCE WITH THE CURRENT VERSION OF THE DELAWARE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR CONSTRUCTION AND MAINTENANCE OPERATIONS.
- STORMWATER MANAGEMENT AND SEDIMENT / EROSION CONTROL SHALL BE IN ACCORDANCE WITH THE CURRENT VERSION OF THE DELAWARE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR CONSTRUCTION AND MAINTENANCE OPERATIONS.
- CONTRACTOR SHALL REFER TO ARCHITECTURAL/STRUCTURAL DRAWINGS OF PROPOSED STRUCTURES FOR ALL DIMENSIONS OF BUILDINGS AND FOUNDATIONS. PROPOSED BUILDING FOOTPRINTS, AS SHOWN ON SITE PLAN, SHOULD ONLY BE USED AS A REFERENCE TO THE ABOVE MENTIONED PLANS.
- HYDRANT CONNECTIONS BY THE CONTRACTOR ARE PROHIBITED. THIS METHOD MAY NOT BE UTILIZED DURING ANY PHASE OF THE PROJECT.
- ALL EXISTING SANITARY SEWER LINES, STORM DRAINS, AND WATER LINES NOT USED FOR THE PROPOSED CONSTRUCTION MUST BE PROPERLY ABANDONED AT THE MAINS IN ACCORDANCE WITH THE CITY OF DOVER DEPARTMENT OF PUBLIC WORKS REQUIREMENTS PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
- PART II, CHAPTER 180, ARTICLE III, SECTION 180-10 OF THE CODE OF KENT COUNTY REQUIRES THAT "NO PERSON SHALL DISCHARGE OR CAUSE TO BE DISCHARGED ANY STORMWATER, SURFACE WATER, UNCONTAMINATED GROUNDWATER, ROOF RUNOFF, SUBSURFACE DRAINAGE, UNCONTAMINATED NONCONTACT COOLING WATER, CONDENSATE, OR UNPOLLUTED INDUSTRIAL PROCESS WATERS TO ANY SANITARY SEWER". THE CONTRACTOR/DEVELOPER SHALL ENSURE DURING CONSTRUCTION THAT NO ILLEGAL DISCHARGES TO THE SANITARY SEWER SYSTEM ARE CREATED WITH THE SITE IMPROVEMENTS.
- THE SITE CONTRACTOR SHALL NOTIFY THE CITY OF DOVER DEPARTMENT OF PUBLIC WORKS CONSTRUCTION MANAGER AT (302) 736-7025 PRIOR TO THE START OF CONSTRUCTION. A REPRESENTATIVE FROM THE CITY OF DOVER DEPARTMENT OF PUBLIC WORKS MUST OBSERVE ALL CITY OWNED WATER AND SANITARY SEWER INTERCONNECTIONS AND TESTING. ALL WATER TAPS MUST BE PERFORMED BY A CITY OF DOVER APPROVED CONTRACTOR. THE PROPOSED LOCATION FOR THE WATER TAP MAY NEED TO BE ADJUSTED IN THE FIELD DUE TO CONDITIONS OF THE EXISTING MAIN. POSSIBLE CONDITIONS THAT WOULD REQUIRE TAPPING RELOCATION INCLUDE PROXIMITY TO PIPE JOINTS, OTHER TAPS, CONCRETE ENCASEMENTS, CONFLICT WITH OTHER UTILITIES, AND THE LIKE. TEST HOLES MUST BE PERFORMED BY THE CONTRACTOR TO DETERMINE THE BEST TAPPING LOCATION. THE CITY OF DOVER WILL NOT BE HELD RESPONSIBLE FOR FIELD CONDITIONS REQUIRING ADJUSTMENT OF THE TAPPING LOCATION OR FOR ANY WORK REQUIRED BY THE CONTRACTOR TO MAKE AN APPROPRIATE AND LAWFUL CONNECTION.
- IF THE APPROVED PLAN NEEDS TO BE MODIFIED DUE TO ERRORS OR OMISSIONS OR FIELD CONDITIONS, ADDITIONAL SEDIMENT AND STORM WATER CONTROL MEASURES MAY BE REQUIRED AS DEEMED NECESSARY BY THE KENT CONSERVATION DISTRICT (KCD).
- THE KENT CONSERVATION DISTRICT (KCD) RESERVES THE RIGHT TO ENTER PRIVATE PROPERTY FOR PURPOSES OF PERIODIC SITE INSPECTION.
- ALL WATER AND WASTEWATER UTILITY COMPONENTS MUST MEET THE REQUIREMENTS OF THE CITY OF DOVER PUBLIC WORKS WATER/WASTEWATER HANDBOOK.
- ALL EXISTING UTILITIES SHALL BE ADJUSTED TO FINAL GRADE IN ACCORDANCE WITH CURRENT CITY OF DOVER REQUIREMENTS AND PRACTICES.
- TRASH COLLECTION SHALL BE BY PRIVATE HAULER. THE CITY OF DOVER WILL NOT PROVIDE TRASH SERVICE TO THIS PROJECT.
- AT ITS MEETING ON OCTOBER 21, 2013, THE CITY OF DOVER PLANNING COMMISSION GRANTED CONDITIONAL APPROVAL OF THE SITE FOR THIS PLACE OF WORSHIP. AT ITS MEETING ON AUGUST 17, 2015, THE CITY OF DOVER PLANNING COMMISSION GRANTED A ONE YEAR EXTENSION FOR THE CONDITIONAL USE SITE PLAN, APPLICATION C-13-11.

FIRE MARSHAL GENERAL NOTES

- ALL FIRE LANES, FIRE HYDRANTS, AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE PREVENTION REGULATIONS (DSFPR).
- ALL BUILDING WITH SPRINKLER SYSTEMS SHALL BE MONITORED AND KNOX BOXES SHALL BE PROVIDED AND INSTALLED ADJACENT TO THE MAIN ENTRANCE DOOR.
- ADDRESS NUMBERS OF AT LEAST 12 INCHES IN HEIGHT MUST BE PLACED ON THE STREET SIDE OF THE BUILDING VISIBLE FROM THE STREET.
- ANY NATURAL OF LP GAS BOTTLES, METERS, REGULATORS, ETC. MUST HAVE IMPACT PROTECTION.
- ANY GAS FIRED HVAC EQUIPMENT MUST BE EQUIPPED WITH EMERGENCY CUT OFF SWITCHES REMOTELY LOCATED.
- FIRE DEPARTMENT CONNECTION TO BE 5" STORZ TYPE CONNECTION.
- PROPOSED BUILDING SHALL MEET THE LARGE AREA BUILDING REQUIREMENTS OF THE DSFPR - REGULATION 702, CHAPTER 5, SECTION 3.
- PROPOSED BUILDING SHALL HAVE HORIZONTAL STANDPIPES INSTALLED IN ACCORDANCE WITH THE DSFPR AND NFPA 14.
- PROPOSED BUILDING SHALL BE PROTECTED BY AUTOMATIC SPRINKLERS IN ACCORDANCE WITH NFPA 13.

LEGEND																	
CONCRETE CURB & GUTTER	CONCRETE SIDEWALK, SLAB / PAVING	IMPERVIOUS SURFACED ROAD, DRIVE OR LOT	INDIVIDUAL TREE OR BUSH	WIRE FENCE	CHAINLINK FENCE	STOCKADE FENCE	STRUCTURE (CONCRETE, WOOD, METAL, ETC.)	DRAINAGE DITCH OR SWALE	EMBANKMENT SIDESLOPES (DOWN)	CONTOUR	ELEVATION SPOT SHOT	BENCHMARK	PROPERTY OR RIGHT-OF-WAY LINE	CENTERLINE	LIGHT POLE	CONSTRUCTION NOTE	
EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED	EXISTING	PROPOSED

SHEET INDEX

C-001	COVER SHEET
C-101	EXISTING CONDITIONS / DEMOLITION PLAN
C-201	SITE / SIGNAGE & STRIPING PLAN
C-301	UTILITY PLAN
C-401	GRADING PLAN
C-500	SEDIMENT & STORMWATER MANAGEMENT COVER SHEET
C-501	PRE-CONSTRUCTION SEDIMENT & STORMWATER MANAGEMENT PLAN
C-502	CONSTRUCTION SEDIMENT & STORMWATER MANAGEMENT PLAN
C-503	CONSTRUCTION SEDIMENT & STORMWATER MANAGEMENT, FACILITY 1
C-504	EROSION & SEDIMENT CONTROL DETAILS
C-505	EROSION & SEDIMENT CONTROL DETAILS
C-601	ENTRANCE PLAN
C-602	ENTRANCE PLAN
C-901	CONSTRUCTION DETAILS
C-902	CONSTRUCTION DETAILS
L-101	LANDSCAPE PLAN

OWNERS CERTIFICATION

WE, DOVER CHRISTIAN CHURCH, INC., HEREBY CERTIFY THAT WE ARE THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, AND THAT WE ACKNOWLEDGE THE SAME TO BE OUR ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

WALTER GORDON, TRUSTEE _____ DATE _____

ENGINEERS CERTIFICATION

I, GREGORY V. MOORE, HEREBY CERTIFY THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

GREGORY V. MOORE _____ P.E. NO. 9311 _____ DATE _____

BECKER MORGAN GROUP

ARCHITECTURE
ENGINEERING

Dover, DE
309 S. Governors Ave.
Dover, DE 19904
Ph. 302.734.7950
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Wilmington, NC
3205 Randall Parkway, Suite 211
Wilmington, North Carolina 28403
Ph. 910.341.7600
Fax 910.341.7506

www.beckermorgan.com

PROJECT TITLE

PROPOSED DOVER CHRISTIAN CHURCH

1738 FORREST AVE.
CITY OF DOVER
KENT COUNTY, DELAWARE

SHEET TITLE

COVER SHEET

SCALE: 1" = 20'

ISSUE	BLOCK	DATE	DESCRIPTION
7	6-23-18	FINAL DELDOT SUBMISSION	
6	5-31-18	REVISED PER AGENCY REVIEW	
5	5-12-18	REVISED PER AGENCY REVIEW	
4	4-14-18	REVISED PER AGENCY REVIEW	
3	3-1-18	REVISED PER AGENCY REVIEW	
2	9-24-15	REVISED PER AGENCY REVIEW	
1	7-27-15	REVISED PER AGENCY REVIEW	

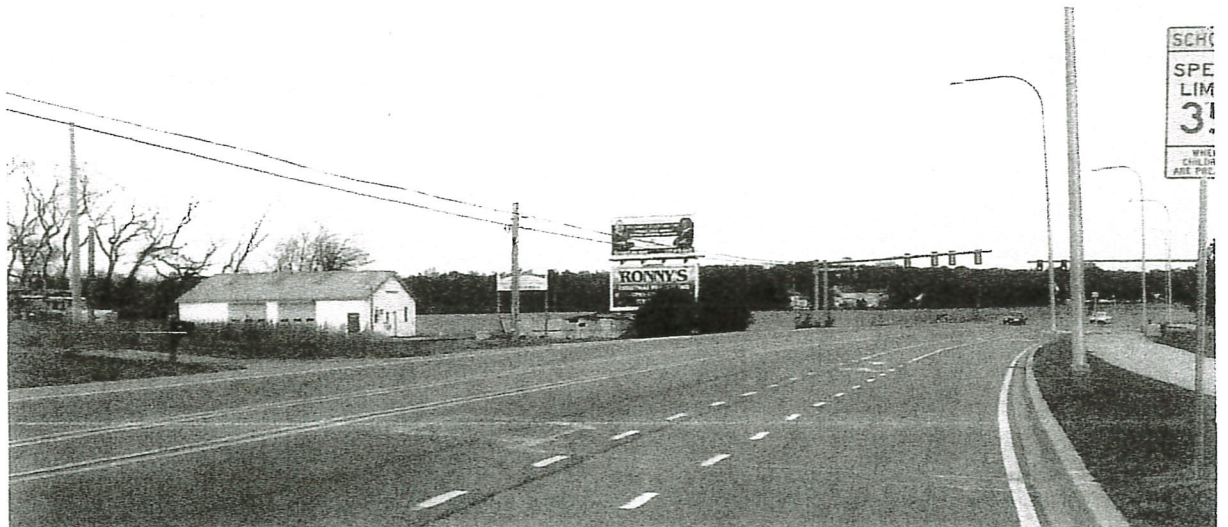
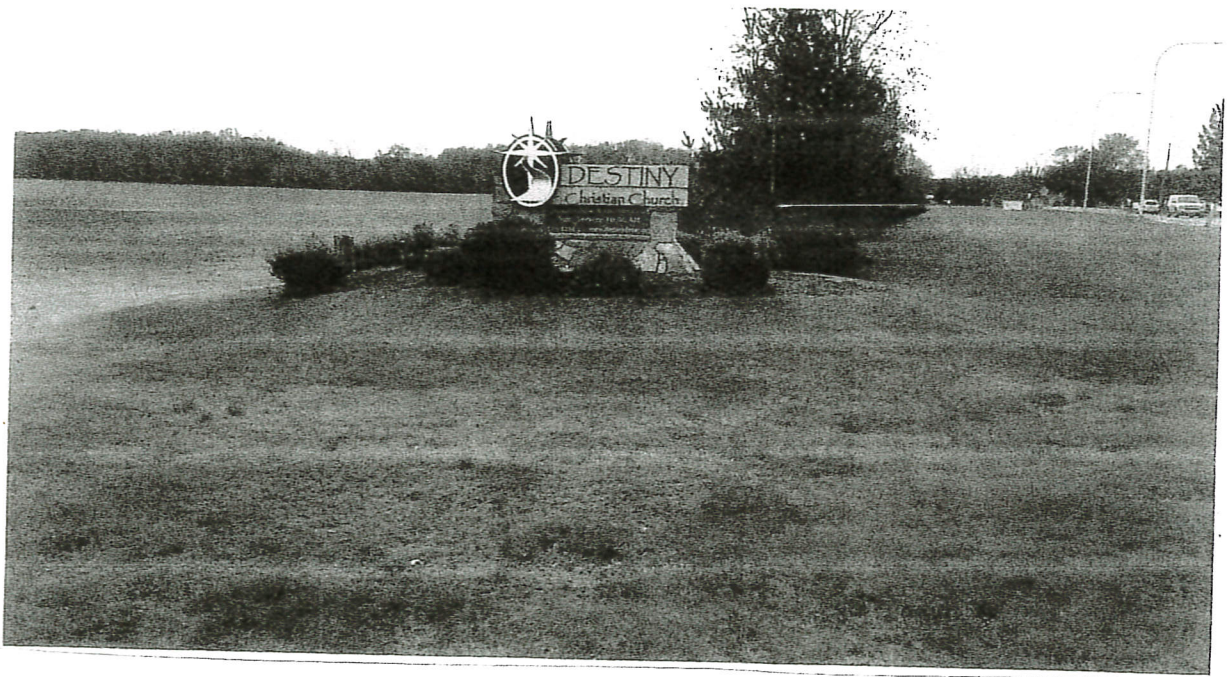
MARK DATE DESCRIPTION

PROJ. NO.: 2012072.00
DATE: 6/19/15
SCALE: 1" = 20'
DRAWN BY: R.J.M. / PROJ. MGR.: J.S.F.

C-001

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DOVER Christian Church





City of Dover

Board of Adjustment

December 19, 2018

V-18-13

Location: 101 Ipswich Court (East of Bay Road and adjacent to Blue Hen Boulevard, within the Blue Hen Apartment Complex behind Blue Hen Corporate Center)

Applicant/Owner: Blue Hen Apartments, LLC

Tax Parcel: ED-05-077.00-01-01.00-000

Application Date: November 15, 2018

Present Zoning: RG-2 (General Residence Zone)

Current Use: Apartments (Apartment Building under construction)

Reviewed By: Julian Swierczek, Planner I

Variance Type: Area Variance

Variance Requested: To reduce the minimum 30-foot setback required for a multiple unit dwelling structure in the RG-2 (General Residence Zone). Applicant is nearing completion of a building which has been built 29.8 feet (29 feet 9.5 inches) from the lot line. This request only pertains to the one apartment building (numbered as Building 24 on the Site Plan).

Project Description

The applicant is requesting a variance from *Zoning Ordinance*, Article 4 §4.3 Bulk and Parking Regulations applying to the RG-2 (General Residence Zone), to allow for a decrease in the minimum front yard setback requirements for multiple dwelling unit apartment building in a residential zone.

This current application V-18-13 is proposing to reduce the minimum front yard setback required for a multiple dwelling unit residential building in the RG-2 zone from 30 feet to 29 feet 9.5 inches to accommodate a nearly completed apartment building which has been located within the setback. The multiple dwelling unit structure (numbered 24 on Exhibit C) on the site of the Blue Hen Apartment Complex as constructed encroaches into the front yard setback. The foundations were built the required 30 feet away from the lot line; however, once the walls were put up and the brick veneer, balcony supports, vinyl siding, and corner trim put in place, the structure instead measures only 29.8 feet (29 feet 9.6 inches) away from the lot line. The structure was built as close to the 30-foot setback as possible to accommodate the 15 feet required by *Code* in Article 6 § 5.3 to be between the parking lot and the apartment building.

It should be noted that the application cites two slightly different figures for the variance request. The application form and map list a front yard setback of 29.8 feet (variance of 0.20 feet), which translates to 29 feet 9.6 inches. The Criteria Response document requests a reduction of 2 ½ inches meaning the variance requested is to reduce the setback to 29 feet 9.5 inches. For this application, the Board should consider the greater reduction requested to allow for a front yard setback of 29 feet 9.5 inches.

The Applicant has provided a series of Exhibits with their application. A Site Plan, highlighting the apartment building (Number 24) can be found in Exhibit C. A series of photographs showing the apartment building subject to this Area Variance request (5 pages) is to be found in Exhibit D. The Apartment building has a specific address (for 911 response) of 101 Ipswich Court.

Adjacent Land Uses

A Zoning Map Exhibit (Exhibit A) prepared by staff is attached to this Report. It shows the subject property location and surrounding zoning.

The properties to the southeast of the apartment complex are zoned IPM (Industrial Park and Manufacturing Zone) and contain the new Chesapeake Utilities Dover Campus. The properties to the southwest are zoned SC-2 (Shopping Center Development) and contain a Day Care facility and the Blue Hen Corporate Center. The property to the northwest is zoned IO (Institutional and Office Zone) and is the site of East Dover Elementary School. Immediately adjacent to the site to the northeast is the Schoolview subdivision of one-family detached dwellings, which are zoned R-8 (One-Family Residence Zone). The subject site itself was developed as apartments in phases from 2007 through 2018.

Code Citations

Zoning Ordinance, Article 4 §4.3 gives the required minimum setbacks for multiple dwelling unit buildings in the RG-2 zone. Highlighted is the setback requirement from which the applicant is asking a variance:

Table 1: Bulk and Parking Regulations for general residence zone (RG-2)

	One-Family Dwellings Detached	One-Family Multiple Semi-Detached and Other Two-Family Dwellings	Multiple Dwellings
Minimum required:			
Lot area/DU (sq. ft.)	(Same requirements as for dwellings in RG-1 zone)		1,700
Lot width (ft.)			100
Lot depth (ft.)			125
Front yard (ft.)			30
Minimum side yard (ft.)			25
Total both side yards (ft.)			50
Rear yard (ft.)			30
Off-street parking spaces			2
Maximum permitted:			
Building height			
Stories			3
Feet			40
Floor area ratio			—
Lot coverage			60%
Number of dwelling units in group of attached dwellings or in multiple dwellings			None prescribed

Zoning Ordinance, Article 12 defines the following:

Dwelling, multiple: A building, or portion thereof, containing more than two dwelling units.

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.

Article 6 §5.3 provides supplementary parking regulations for multiple dwellings:

No parking space shall be located in any front yard or within three feet of any lot line in side or rear yards. The parking of motor vehicles within 15 feet of any wall or portion thereof, is prohibited. Except for electric charging stations, no automobile service shall be permitted to be extended to users of the lot, including sales, repair or fueling, and no gasoline, oil, grease, or related supplies shall be stored or sold in any such lot or in any garage on such a lot.

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 below along with a Staff assessment of the application in accordance with the required criteria. The applicant's responses are also provided in Exhibit B.

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

Applicant Response:

"The property is in the RG-2, General Residence zone, which allows a mix of commercial and residential uses."

Staff Response:

Staff notes that the RG-2 (General Residence) zone allows for certain agricultural uses and public buildings, as well as a variety of residential uses including one-family-residences, multiple dwellings, and Garden Apartments. Garden Apartments are considered a type of multiple dwelling. In the RG-2 zone commercial uses are slightly limited in scope, being only conditionally allowed after a review and approval by the Planning Commission.

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

Applicant Responses:

“The adjoining property on which the side of the non-conformity exists is zoned IO, Institutional/Office, and is used as a recreational field. There is landscaping between the building and Blue Hen Mall Road, negating the appearance of the non-conformity. The other use near the project is the Schoolview subdivision that is zoned R-8. The rear of the residential houses face the building and there is a large landscaped buffer and wood fence between the properties.”

Staff Response:

Staff concurs with the applicant’s description and notes that their description pertains to the properties to the northwest and northeast of the site in question, which are the properties nearest to the apartment building subject to this variance request. The apartment building is adjacent to Blue Hen Boulevard on its north and Haslet Street (the entrance drive to the complex) on the east. To the northwest is East Dover Elementary School with its recreational fields being closest to the apartment building in question. To the northeast, across the apartment complex entrance drive (Haslet Street) are a series of single family residences zoned R-8 (One-family Residence Zone). These homes are part of the Schoolview subdivision. The rear yards of these homes are landscaped and there is a wooden fence largely blocking the view of the subject site from the houses. The properties to the southwest of the apartment complex are zoned SC-2 (Shopping Center Development zone) and contain a Daycare building and The Blue Hen Corporate Center with the various offices and facilities. Staff further notes that areas to the southeast are zoned IPM (Industrial Park and Manufacturing Zone); this is where the newly built headquarters of Chesapeake Utilities is located.

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

Applicant Response:

“There would not be any effect on the adjoining property. There is landscaping between the building and the Blue Hen Mall Road which creates a uniform setting. The nonconformity is 0.20’ (2½”) which is not noticeable given the layout of the site and the landscaping. The land directly adjoining the building is a recreational field, so no neighbors are affected by granting the variance.”

Staff Response:

Planning Staff agrees with the assessment of the applicant in that the part of the site where the apartment building in question is located, sits across from the recreational fields of a neighboring school. The area between the apartment building and the adjacent road, Blue Hen Boulevard, is landscaped. As the variance is relatively minor in scale, no neighboring properties would be seriously affected if the variance were approved.

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:

“The hardship was caused by the existing parking area which affected the original layout of the apartment complex. The corner of the building would need to be removed and reconstructed 0.20’ (2½”) closer to the site which would be an economic hardship on the owners of the property.”

Staff Response:

Staff notes that the Applicant sought to build the apartment building as close to the lot line on Blue Hen Boulevard as possible, so as to ensure that the building was at least 15 feet from the parking lot as required in *Zoning Ordinance* Article 6 §5.3. They also note that the only reason they encroached into the 30 ft setback was an oversight. They put the foundations where required by Code but accidentally did not account for the exterior wall cladding, which would slightly overhang the foundation by 2.5 inches. The applicant has stated that, were the variance not to be approved, they would incur an economic hardship as they would not be able to utilize the nearly completed apartment building and would have to partly demolish the part (northern wall) of the structure and reconstruct so as to be compliant with the 30-foot front yard setback. Planning Staff would agree with this being an unnecessary hardship.

Variance Recommendations

Staff recommends approval of the variance to allow decreasing the minimum front yard setback for a multiple-dwelling unit structure in the RG-2 zone to 29 feet and 9.5 inches, as pertaining specifically to Building 24 (Addressed as 101 Ipswich Court). Staff recommends approval for reasons as follows:

- The decrease in minimum setback requirements is not significant enough to pose any detrimental affect on the neighboring properties. The current minimum allowed front yard setback for a multiple dwelling unit building in the RG-2 zone is 30 ft. and the applicant is proposing reducing this minimum for just one of their apartment buildings to only 29 ft. 9.5 inches. This is a total reduction of only 2.5 inches. The applicant has stated that they were built so close to the lot line for the purpose keeping the required minimum of 15 ft. away from the parking lot on the other side of the building. While the apartment building foundations were placed at the 30 ft. minimum setback, once the exterior wall cladding materials were placed, the structure ultimately was 29 feet 9.5 inches from the lot line. It was error made in calculating for the siding and trim that were added at later stages of wall construction that created the non-conformity.
- To the northwest of the subject Apartment Building is the recreational field for East Dover Elementary School. The apartment building is screened from the adjacent road and school property by landscaping. To the northeast are single family-dwellings which are further screened from the site by a wooden fence and landscaping. These site elements, together with the relatively small scale of the variance, minimize any impacts that neighboring properties may incur were the variance to be granted.

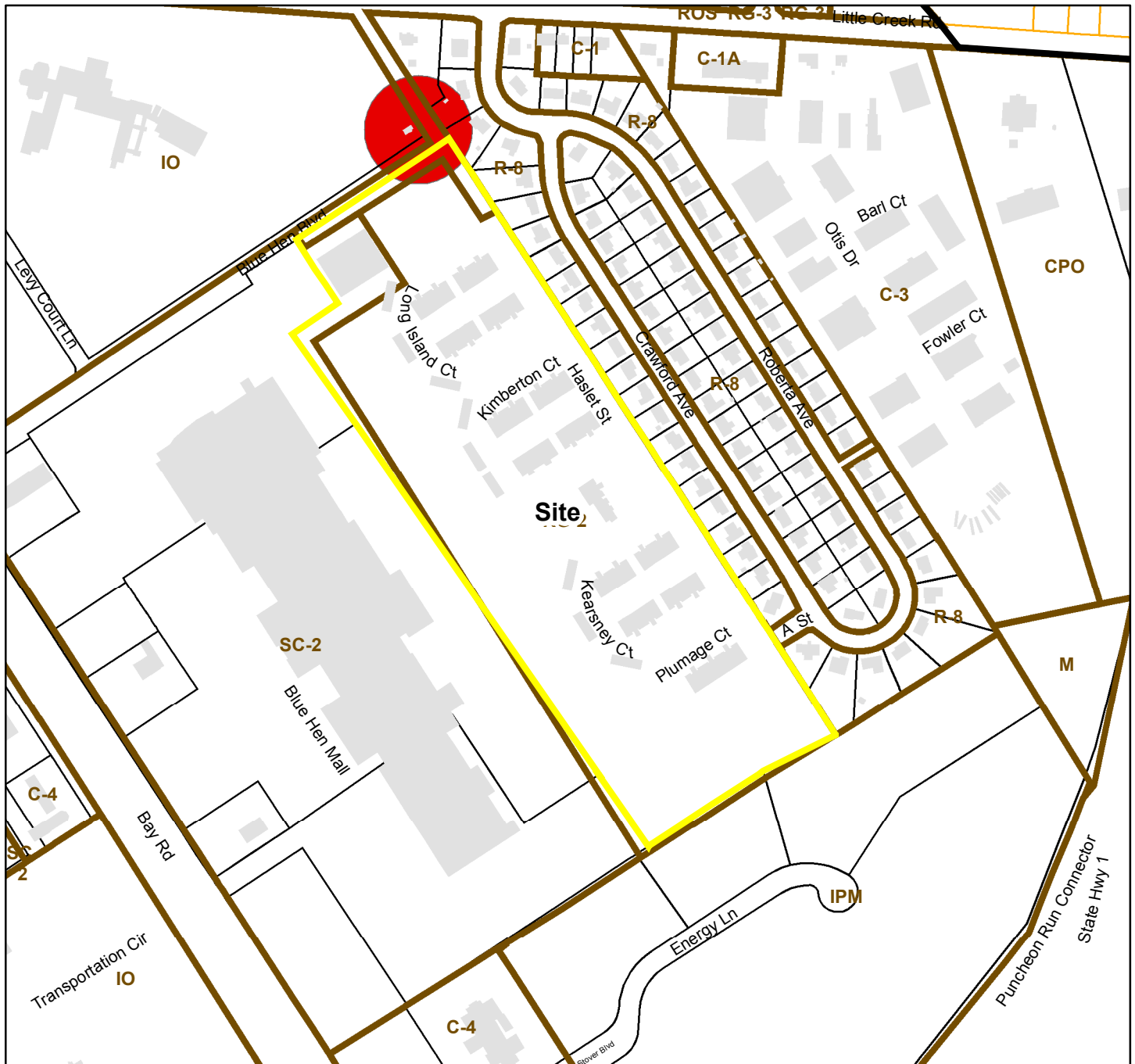
- As the building is nearly completed, Staff believes it would be an unnecessary hardship for the applicant to not have this variance request approved.

Advisory Comments to the Applicant

- Approval of a variance does not constitute a Building Permit. A Building Permit must be received from the City of Dover prior to the start of any construction work. In this case, documentation of the action on the variance would need to be added to the Building Permit already issued for this apartment building and its compliance evaluated as part of the Final Inspections for the building.

GUIDE TO ATTACHMENTS

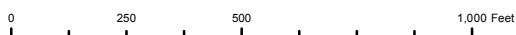
Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Criteria Responses (Applicant)	2
C	Site Plan identifying the apartment building subject of Variance request (Applicant)	1 (36" x 24")
D	Series of photos showing the garages which are the subject of this application	5



Title: Lands of Blue Hen Apartments LLC
Address: 101 Ipswich Ct,
Parcel ID: ED-05-077.00-01-01.00-000
Zoning: RG-2 (General Residence Zone)
Owner: Blue Hen Apartments LLC
Date: 12/11/2018

Legend

- Subject Property
- Dover Parcels
- Zoning
- 2012 Buildings
- Kent County Parcels
- Dover Boundary



November 15, 2018

Ms. Dawn Melson-Williams
Mr. Eddie Diaz
City of Dover Department of Planning
P.O. Box 475
Dover, DE 19903

RE: BLUE HEN APARTMENTS – BOARD OF ADJUSTMENT APPLICATION

Dear Dawn/Eddie:

We would like to make an application for an area variance request for the above referenced project. We are requesting a variance from Article 4, Section 4.3 of the City of Dover Zoning Ordinance which requires a setback for all structures. Building 24 was constructed over the setback line with the minimum setback being 29.8' for a variance of 0.20'.

Building 24 was constructed on an undeveloped portion of the original Blue Hen Apartments as an infill development. The building was pushed to the front yard setback line due to meeting the requirement for Article 6, Section 5.3 that required 15' spacing from the parking lot to the building windows. We could not move the existing parking therefore to maintain the required spacing we shifted the building toward the setback line.

The building in question have a foundation that was placed on the 30' setback line. Unfortunately, the vinyl siding and corner trim extend beyond the foundation, creating the non-conformity. The maximum non-conformity is a 0.20' encroachment into the setback.

The Area Variance shall be evaluated on the following criteria:

1. The nature of the zone in which the property lies: The property is in the RG-2, General Residence zone, which allows a mix of commercial and residential uses.
2. The character of the immediate vicinity and the contained uses therein: The adjoining property on which side the non-conformity exists is zoned IO, Institutional/Office, and is used as a recreational field. There is landscaping between the building and Blue Hen Mall Road, negating the appearance of the non-conformity. The other use near the project is the Schoolview subdivision that is zoned R-8. The rear of the residential houses face the building and there is a large landscaped buffer and wood fence between the properties.

3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses: There would not be any effect on the adjoining property. There is landscaping between the building and Blue Hen Mall Road which creates a uniform setting. The non-conformity is 0.20' (2½") which is not noticeable given the layout of the site and the landscaping. The land directly adjoining the building is a recreational field so no neighbors are affected by granting the variance.

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 provision of the zoning ordinance: The hardship was caused by the existing parking area which affected the original layout of the apartment complex. The corner of the building would need to be removed and reconstructed 0.20' (2½") closer to the site which would be an economic hardship on the owners of the property.

We appreciate your consideration in this variance request. Please review this information and call me if you have any questions.

Sincerely,

LARSON ENGINEERING GROUP, INC.

Douglas J. Liberman
Vice President





