

CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
April 17, 2019

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, April 17, 2019 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 Mr. Swierczek, Mr. Hugg, City Solicitor Mr. Rodriguez, and Mrs. Savage-Purnell.

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the agenda as submitted. The motion was seconded by Mr. Senato and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF MARCH 20, 2019

Mr. Keller moved to approve the meeting minutes of March 20, 2019 with the necessary corrections. The motion was seconded by Mr. Senato 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 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 applications on this agenda was completed in accordance with Code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

COMMUNICATIONS & REPORTS

The next Board of Adjustment regular meeting is scheduled for May 15, 2019 at 9:00am in the City Council Chambers.

NEW BUSINESS

Applicant #V-19-04

223 and 225 West Division Street. NCALL has requested a variance from the requirements of the *Zoning Ordinance*, Article 4 §4.14 pertaining to the bulk standards of the C-1A (Limited Commercial Zone). Specifically, the applicants seek to increase the maximum permitted number of stories from two to three, and increase the maximum height permitted in feet from 30 feet to 34 feet. The variances are being requested so that a new 3-story office building may be built on both parcels that are to be consolidated. The new building will be utilizing the existing setbacks

that currently exist on both parcels. Subject properties are zoned C-1A (Limited Commercial Zone). Tax Parcels: ED-05-076.08-05-28.00-000 and ED-05-076.08-05-29.00-000. The owner of record for both properties is NCALL.

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 April 7, 2019. The public was notified in accordance with regulations.

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

Mr. Swierczek gave a summary presentation of the Variance Application Request to increase the maximum permitted number of stories from two to three, and increase the maximum height permitted in feet from 30 feet to 34 feet for a new 3-story office building to be built on both parcels that are to be consolidated.

Representative: Ms. Karen Speakman, NCALL’s Executive Director; Mr. Kevin Wilson, Architect; Ms. Patricia Kelleher, NCALL’s Real Estate Development Director.

Ms. Speakman was sworn in by Mr. Rodriguez.

Ms. Speakman handed out the most recent year-end report (NCALL Research, Inc. Annual Report 2018). She testified that NCALL has been in business in Dover since 1976. We are a housing and community development organization. We help develop affordable housing throughout the State of Delaware and the Delmarva Peninsula. She thinks they are mostly known for their pre-purchase Housing Counseling Program where we help first-time home buyers and helped over 8700 families in Delaware buy a house and understand the process. They also help families with Foreclosure Prevention and Financial Coaching. They then in turn help non-profits in terms of developing apartment complexes. At the current time, they are doing a review at the Ministry of Caring in Wilmington to develop the Cathedral of St. John into the Village of St. Johns for senior citizens. The Felician Sisters of North America near Newark (Our Lady of Grace Village) will develop sixty (60) family rental housing units. We also have a loan fund that consist of \$24 million that lends to other non-profits to do affordable housing and community facilities. We have helped charter schools like the First Military Academy, health centers, Legal Aid’s office buildings and more. They have a wide variety of what they do. As the lead agency, they have been very much involved in Restoring Central Dover. The traffic boxes downtown is a small example of their art project. At the current time 22 houses have been built through NCALL, Habitat for Humanity, and a few other developers. So, you now have 22 new homeowners in Central Dover. There are four (4) new houses that are currently being constructed. There are a variety of programs within Restoring Central Dover with a steering committee made up of over 20 different organizations and people. One recent key program called the Launcher Program which consists of 13 new entrepreneurs who graduated last fall and the other night we had 21 new entrepreneurs who graduated. They are looking to do business in Dover as part of their criteria to be in the program. Several of them have started businesses already and we are looking for a few more. We are bursting at our seams at the recent office on Saulsbury Road and what we are envisioning with the new building other than more space is what we thought we should put our money where our mouth is

in terms of Restoring Central Dover. We have purchased these two (2) properties and look to build a 3-story building. Part of the discussion with this building is the final MOU with Delaware State University to place a small incubator into this building. It will be sort of an interesting progress for our Launcher graduates to move into this incubator so that they can really start their business plan and set things into motion for their businesses as well as new ones. We feel that we will be a community-based incubator. We hope to pull people from the community into this and hopefully have them start new businesses. We will also place some of our Staff in the new building including Restoring Central Dover Staff. Habitat for Humanity would also like to use the building to meet with families during the interview process.

Mr. Kevin Wilson was sworn in by Mr. Rodriguez.

Mr. Wilson testified that when he first met with Ms. Speakman and Ms. Kelleher, they realized very quickly that the site is very limited in terms of the area and size and what their needs way far exceeded what would be allowable based on the present zoning. Part of the reason is we wanted to get off-street parking spaces. In order to do that there is a rear alley (noted on the Site Plan) that really encroached into what would otherwise be a part of the building area on the ground floor. In doing that (parking) the ground floor was reduced by roughly 1000-feet from what it would be on the upper floors. When you add in the fact that you have a stair towers and elevator, the usable area on the ground floor is greatly restricted. That is what lead us to look at a third floor. When he walked and looked around the neighborhood it seemed as if there were a lot of buildings that occupied third floors whether it was within a roof as part of a mansard or just in the attic; you could see that they were using the upper floor. Several blocks away there is a building that is owned by Wesley College that has a mansard and is really a nice-looking building. You see the visual scale of the top floor is reduced because of the mansard. What we want to do here is take a 3-story building and reduce the aesthetic with the top floor as being a mansard, so it gives the appearance of a 2-story building with some usable space in the attic. That pushes the third floor in a few feet around all four sides but still creates a fair amount of useable square footage on that upper floor. He stated that they wanted to use an orange-red brick like Wesley College and his rendering is close. The intent is to use a colonial red brick on this building. In summary, we picked up a lot of architectural details in the neighborhood. We think that it is consistent with the massing and size of the other surrounding buildings and we think that it would be appropriate for the neighborhood.

Chairman Sheth stated that it was a nice-looking building.

Colonel Ericson questioned if the variance application was disapproved what affect it would have on this project. Mr. Wilson replied that they would loose about 3000 square feet. It would also reduce the usable floor area by a large percentage.

Colonel Ericson questioned if there was a chance the project would not go forward if what was previously mentioned did not occur. Ms. Speakman replied it would definitely affect the feasibility of the property in terms of how to rent it out and pay for it. Without the third floor, it would be very hard for her to make it work.

Colonel Ericson mentioned one of the criteria is if there is a hardship or Exceptional Practical Difficulty. We like to look at the project in light of the Zoning; the Board likes to stick with the Zoning most times unless it is shown that there would be a definite hardship. If we were to approve the variance without stating that this is a unique property for a unique use, then the Board approval would affect all the units near that area.

Ms. Speakman stated that it would cause an Exceptional Practical Difficulty. At the current time the project is being priced out around \$2 million. We are also building to a LEED Silver standard to ensure energy efficiency. Without the third floor she honestly does not think they could do the project.

Mr. Hufnal mentioned that it is a great improvement for that area. He saw the community preference survey that was done, and it showed that the survey participants would prefer to see three or four-story buildings in the Division Street corridor. Also, the height of the building is in keeping with the goals of the plan.

Mr. Senato questioned if the third floor would be used for office space. Ms. Speakman replied yes.

Chairman Sheth questioned if their current building was located on Saulsbury Road. Ms. Speakman replied yes.

Ms. Speakman mentioned that they hope the project will be a catalyst for Division Street. We hope that it will encourage other owners along the street to improve their properties and/or develop some programs for the streetscape improvements. She thinks that the project will make a difference.

Mr. Keller questioned if the third floor would be fixed office space for a rental or a floating in and out of office usage space. Ms. Speakman replied at the current time, the incubator will be on the second floor and the third floor will be available to expand with some of the businesses into other spaces as well as NCALL and Habitat for Humanity will be using the space.

Mr. Keller questioned if it was some sort of on-call usage/privilege on those areas or is it a fixed rental space. Ms. Speakman replied eventually it would be fixed rental space, but it can be used as needed.

Ms. Patricia Kelleher was sworn in by Mr. Rodriguez.

Ms. Kelleher replied to the above question that in their discussion with Delaware State University at this point want to rent the second floor for the incubator. As the discussions have proceeded, they are wondering if they are going to need the third floor as well due to a need for more space. If Delaware State University does not use the space, they will look for other businesses to take on that space. They will have some debt associated with the project. Although they are doing their very best to raise all the funds regarding the capital piece, they will have to service that debt through rental. To make the project feasible they need the third floor.

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. Mr. Swierczek mentioned that a member of the public called and expressed concern about the setbacks that are allowed in the Zoning. They mentioned they would attend the meeting today, but no one showed up.

Mr. Senato moved to approve variance application V-19-04 for the three story and the 34 feet building height. If the variance was not approved there would be a definite hardship on the parties. The applicant is doing a great deed to improve the area. It is also within keeping of the area and improving the area itself. The motion was seconded by Mr. Hufnal. The motion unanimously carried 5-0.

The meeting was adjourned by Mr. Senato and seconded by Mr. Colonel Ericson at 9:31 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary