CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
January 18, 2017

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, January 18, 2017 at 9:02 A.M. with Vice Chairman Ericson presiding. Members present were Vice Chairman Ericson, Mr. Hufnal, Mr. Keller and Mr. Senato. Mr. Sheth was absent.

Staff members present were Mrs. Townshend, Mrs. Purnell, Mr. Diaz, Mr. Cook, and City Solicitor Mr. Nick Rodriguez.

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the agenda as submitted. The motion was seconded by Mr. Senato and unanimously carried 4-0. Mr. Sheth was absent.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF DECEMBER 21, 2016

Mr. Keller moved to approve the meeting minutes of December 21, 2016, seconded by Mr. Hufnal and unanimously carried 4-0. Mr. Sheth was absent.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATION

Mrs. Townshend, Director of Planning and Community Development stated that the meeting today will be conducted in accordance with the agenda. There are two (2) new applications on the agenda under New Business. The 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.

NEW BUSINESS

Applicant #V-17-01

118 Galaxy Drive. Cellco Partnership dba Verizon Wireless has requested a variance from the requirements of Article 4 § 4.16 of the *Zoning Ordinance* pertaining to maximum permitted building height to allow construction of a 158 foot telecommunications monopole and associated facilities. Subject property is zoned IPM (Industrial Park Manufacturing Zone- Planned Industrial Park) and is subject to the AEOZ (Airport Environs Overlay Zone). The Tax Parcel is ED-05-087.00-01-07.13-000. The owner of record is Independent Newspapers Inc. *Variance #V-15-13 was approved by the Board of Adjustment at its meeting of September 16, 2015. The variance expired because construction did not commence.*

Exhibits for the Record: Staff report and plans submitted by the applicant. Legal Notice was published in the Delaware State News on January 8, 2017. The public was notified in accordance with regulations.

Mr. Cook gave a brief overview of the application. He noted that the agenda and public notice were released referencing a requested 158-foot tower height. The correct height requested for the proposed monopole is 150 feet.

Responding to Mr. Senato's question whether there was any reason for the procrastination from the year ago approval, Vice Chairman Ericson replied that it will be discussed shortly.

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

Representative: Mr. Jonathan Jordan, Attorney and Mr. Jeff Nagorny, Civil Engineer.

Mr. Jeff Nagorny was sworn in by Mr. Rodriguez.

Mr. Jordan stated that Mr. Cook did an outstanding job laying out the case. He will be missed. The entire Planning Staff is wonderful to work with. In terms of Mr. Senato's question it was just a matter of Verizon managing maybe thousands of sites in the Mid-Atlantic area and trying to coordinate the construction. They just were not ready to start building at the time. He would like to incorporate the previous record into this record, especially the reports that talked about why they needed the site and particular height, etc. He spoke with Mr. Cook regarding not having to bring back the witnesses; however, he wanted Mr. Nagorny to confirm that nothing had changed since September 2015 with any of the factors that went into the variance. He asked Mr. Nagorny if he agreed with the statement and if he had anything to add? Mr. Nagorny replied that the only change was what was already mentioned by Mr. Cook regarding the height. Originally it was a 150-foot structure with an 8-foot lightning rod. Apparently, the heights of lightning rods can vary. So now we have a 145-foot monopole with a 5-foot lightning rod, with a maximum height of 150 feet, otherwise everything else remains the same.

Mr. Keller referred to the Staff Report references in exhibit C which is the reduced size plan (plan sheets T-1 thru Z-8) and noted that there were certain references to a height of 158 feet to the top of the lightning rod and it should be corrected to 150 feet at the top of the lightning rod. He agrees whole heartily with that, but he noted that there were other spots within the plan sheets (mainly T-1), he would like to affirm that wherever there is a reference in those plan sheets to a 158 feet, that it should be changed to a total height of 150 feet. Mr. Cook replied that is correct.

Mr. Nagorny stated that they typically prepare a set of zoning drawings which does not contain all of the technical details that are submitted for the Building Permit. They then prepared a set of construction drawings which is dated November 22, 2016. The plans that were referenced by Mr. Keller were dated August 2015. He did not know if it was necessary to submit as an exhibit, but he had a copy of the drawing which is much more substantial. He concurred with Mr. Keller that the permanent plans that will be submitted will reflect the maximum height of 150 feet including the lightning rod.

Responding to Vice Chairman Ericson's question whether they contacted Dover Air Force Base regarding the AEOZ Noise Zone, Mr. Nagorny replied yes. In the zoning decision V-15-13 he has a copy of the statements of facts that indicates the original variance application sought a monopole with a height of 158 feet, but upon consultation with Dover Air Force Base, applicant was asked to reduce the height to a total of 150 feet which is the variance sought in the present application with the approval of Dover Air Force Base.

Vice Chairman Ericson opened the public hearing.

Vice Chairman Ericson questioned if there was any additional correspondence for the record. There was none.

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

Mr. Senato moved to approve application V-17-01 with regards to the previously approved and subsequently expired variance V-15-13 the facts, conditions, and proposed constructions are unchanged from the last meeting in September of 2015, the height has been corrected from 158 feet to 150 feet. The motion was seconded by Mr. Hufnal and was unanimously carried 4-0. Mr. Sheth was absent.

Applicant #V-17-02

341 Saulsbury Road. Whatcoat United Methodist Church has requested a variance from the requirements of Article 5 § 4.7 of the *Zoning Ordinance* pertaining to the maximum permitted sign area for a monument sign located on an Urban Minor Arterial street in order to allow construction of a 24 square foot monument sign. Subject property is zoned RG-1 (General Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The Tax Parcel is ED-05-067.19-02-10.00-000. The owner of record is Whatcoat Methodist Church.

Exhibits for the Record: Staff report and plans submitted by the applicant. Legal Notice was published in the Delaware State News on January 8, 2017. The public was notified in accordance with regulations.

Mr. Cook gave a brief overview of the application.

Responding to Colonel Ericson's question if a 12-foot sign would be a safety potential hazard because people would have to slow down to read the sign, Mr. Cook stated that it was a concern or part of the recommendation for allowing the 24-foot sign, because the 12-foot sign would be a small. There is a safety hazard in that most people will not slow down or be distracted and spend too much time trying to read the sign.

Responding to Mr. Hufnal's question whether the sign table was one of the factors being reviewed for requirement changes, Mr. Cook replied yes. They have identified a lot of issues. One is the issue of conditional uses in residential zones is not addressed very well in the sign table.

Vice Chairman Ericson questioned if there was any member present who had a conflict of

interest and there was none.

Mrs. Kim Diehl was sworn in by Mr. Rodriguez.

Representative: Mrs. Kim Diehl, Owner of Kent Signs.

Mrs. Diehl testified that Mr. Cook gave an overview of majority of the application. She stated that there is a 32 square foot existing changeable letter sign currently on the property. They would like to remove the 32 square foot sign that sits further back on the property and replace it with a sign closer to the road; however, still within the required setbacks. There is no variance being requested for a setback. This would be a reduction from an existing 32 square foot sign to a 24 square foot sign.

Responding to Mr. Keller's question of whom she represents, Mrs. Diehl replied she is with Kent Sign Company, but she is representing her client Whatcoat Methodist Church.

Mr. Keller questioned the circumstances surrounding the absence of specific uses cited in Exhibit B related to the sign table, and suggested that if there was any question whether the Board should perhaps consider a Conditional Use approval in addition to the specifics in the variance application for the sign itself. He was wondering if it would clear up any questions as to whether the approximate location of the house of worship (the church) since there is not a specific reference to that type of a use within that RG-1 Zone. He would not mind at all in recommending additional provisions for approval of the church Conditional Use in addition to the sign provision requested, if that is otherwise somewhat questionable. Mrs. Townshend replied that the issue is the residential zone allow churches (a place of worship) as a Conditional Use. There is no concern that the Zoning Ordinance does not allow for the church to be there, the issue is just with the sign table. The only issue the Board needs to consider is whether the church can have a variance to increase the sign area from 12 square feet to 24 square feet.

Mr. Keller stated that upon reviewing the staff report that was his thought, but then with some of the discussion it seemed to leave some question as to whether or not it was an allowable Conditional Use. Mrs. Townshend replied it was not an issue. The one family residence zones allow for places of worship and the general residence zones points back to that. The issue of the churches location there is okay. As a matter of fact, staff has been going through a process of expiring non-conforming uses in residential zones and this is not one that staff has addressed as a non-conforming use because it is allowed as a Conditional Use.

Vice Chairman Ericson opened the public hearing.

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

Vice Chairman Ericson questioned if there was any additional correspondence for the record. There was none.

Mr. Hufnal moved to approve application V-17-02 based on the testimony given today and also on Mr. Cook's excellent synopsis of the variance and staff recommendations. The motion was

seconded by Mr. Keller and was unanimously carried 4-0. Mr. Sheth was absent.

Mrs. Townshend shared that this was Mr. Cook's last meeting with the City of Dover. On Monday he will start a new job with the City of Alexandria, Virginia. We wish him well. We are sad to see him go, but we think that this is a new and exciting experience and hopes he enjoys it. He has truly improved the quality of the Board of Adjustment report. We will continue the practices that he has started.

The Board members also stated that they will miss Mr. Cook and the excellent and easy to understand and read synopsis of the reports.

The Board had a brief discussion of the sign table.

Mr. Hufnal moved to adjourn the meeting, seconded by Mr. Keller and unanimously carried 4-0. Mr. Sheth was absent.

Meeting adjourned at 9:38 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary