CITY OF DOVER BOARD OF ADJUSTMENT
AGENDA
Wednesday, April 19, 2017 at 9:00 AM

City Hall Council Chambers
15 Loockerman Plaza, Dover, Delaware

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES of March 15, 2017 Meeting

COMMUNICATIONS & REPORTS

1. Reminder: The next Board of Adjustment regular meeting is scheduled for May 17, 2017 at 9:00am in the City Council Chambers.

OLD BUSINESS

Applicant #V-17-02 Revised

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 32 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. *This application was previously approved at the January 18, 2017 meeting of the Board of Adjustment. At that meeting the Board approved a 24 square foot monument sign. The application returns to the Board of Adjustment to permit a change in the previously approved variance.*

NEW BUSINESS

Applicant #V-17-10

1011 South Governors Avenue. Thomas Deladvitch has requested a variance from the requirements of Article 5 §7.5 of the *Zoning Ordinance* pertaining to permitted locations of barbed wire fencing, in order to retroactively allow installation of barbed wire on a fence adjoining a residential zone; the fence borders a property zoned RGO (General Residence and Office Zone). Subject property is zoned C-1A (Limited Commercial Zone). The Tax Parcel is ED-05-077.17-07-04.00-000. The owner of record is Deladvitch Real Estate Investment Trust.

Applicant #V-17-11

53 Roosevelt Avenue. JCD Investments LLC has requested a variance from the requirements of Article 4, §4.15 of the *Zoning Ordinance* pertaining to bulk standards in the C-4 Zone, in order to permit a twenty (20) foot rear setback. Subject property is zoned C-4 (Highway Commercial Zone). The Tax Parcel is ED-05-077.17-05-73.00-000. The owner of record is JCD Investments LLC. *This property previously went before the Board of Adjustment on February 15, 2017 in order to permit an increase in maximum parking spaces from eleven (11) to fourteen (14) spaces (Application V-17-05). The prior variance was approved.*

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
March 15, 2017

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, March 15, 2017 at 9:02 A.M. with Chairman Sheth presiding. Members present were Chairman Sheth, Mr. Hufnal, Mr. Keller, Mr. Senato and Colonel Ericson.

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

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the revised agenda with the removal of application V-17-08. The motion was seconded by Mr. Senato and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF FEBRUARY 15, 2017

Mr. Keller moved to approve the meeting minutes of February 15, 2017 with the necessary corrections, seconded by Mr. Hufnal and unanimously carried 5-0.

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 three (3) 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-17-06

Lakeside Cemetery on east side of North State Street. Wesley United Methodist Church has requested a variance from the requirements of Article 5 §4.7 of the *Zoning Ordinance* pertaining to permitted sign types and maximum permitted sign height, to allow construction of a 13-foot tall archway sign on the grounds of Lakeside Cemetery. Subject property is zoned ROS (Recreation and Open Space Zone). The Tax Parcel is ED-05-068.13-01-02.00-000. The owner of record is Wesley Methodist Church.

Exhibits for the Record: Staff report, zoning exhibit, statements, photos and plans submitted by the applicant. Legal Notice was published in the Delaware State News on March 5, 2017. The public was notified in accordance with regulations.

Mr. Diaz gave a brief overview of the application.

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

Colonel Ericson questioned whether the case was based on the fact that archways have been overlooked and prohibited. It seems if the archways are not in the Code they are prohibited. The Code states what can be done and if the archways are not in the Code and the Planning Office thinks it should be in the Code then there should be an amendment to the Code so that it is covered. Mr. Diaz replied that this is something that could be done in the future with amendments to the sign ordinance.

Colonel Ericson questioned whether there was any reason the Code could not be amended now because it would be the correct way to do it? Mr. Rodriguez replied that it would have to go before the Planning Commission for a recommendation and also before Council.

Colonel Ericson questioned how long it would take (two or three months)? Mr. Rodriguez replied in all probability. Mrs. Townshend replied three to four months.

Mrs. Townshend stated that part of the issue is the use as a cemetery is a unique use and there are not a lot of cemeteries. It is not a sign type that would be used on a commercial property. In terms of the likelihood of the Board seeing additional variances for an archway sign, it is a unique use. Not necessarily because the sign code is broken in that regard, but it's because the use is very different than the other types of uses.

Colonel Ericson stated as he referred to a letter received today that there were very few archways in Dover. He questioned why the applicant could not comply like everyone else and not have an arch? Mrs. Townshend replied that this would be a question for the applicant.

Mr. Keller questioned whether there had ever been a discussion or a question for clarification on maximum height of a permitted sign. As he read through the case he continued to see reference to the height of the sign and the requested 13-foot height elevation for a variance. It jumps out to him as a matter of elevation above grade level as opposed to the height of the sign. He questioned whether the height of the sign in and of itself is approximately 1-foot. Mrs. Townshend replied that sign height based on the *Zoning Ordinance* definition and is measured from grade to the top of the sign. For instance, if you have a pylon sign, the height of the sign face may be 3-feet, but the pylon itself maybe 25-feet. This is how the Zoning Ordinance calculates it.

Mr. Hufnal stated that in the sign ordinance they allow 32 square foot of signage. The figures on this sign even though it is 13-feet off the ground was 25 square feet because of the wording. Mrs. Townshend replied correct, because the "sign area" is simply a geometric figure over the

lettering.

Mr. Hufnal questioned if the sign itself was legal, but the height was just higher than what is normally allowed. Mrs. Townshend replied also the type of sign, because the Ordinance does not permit archways. The issue as it relates to the height is what would the comparable be as you will also notice in the other variances. For example, the roof sign was looked at as if it is more comparable to a wall sign. This sign is more free standing so we would look at it more comparable to the way a post and panel sign is structured.

Mr. Keller questioned if this sign was simply planned to be erected other than across the roadway/ walkway, move it up 50-feet and simply have the archway name identifier sign installed further down, and asked if it would be a perfectly acceptable sign? Mrs. Townshend replied if it was lower to the ground and not 13-feet it would not be an archway; it would be a post and panel.

Mr. Keller questioned whether it was deemed an archway sign by virtue of it being placed above the roadway. Mrs. Townshend replied yes. We could call it a post and panel, but again when you look at the definition of a post and panel it does not entirely lend itself to this sign design. This is a unique type of design. It will pretty much be exclusive to the use of a cemetery.

Mr. Hufnal questioned whether traffic drove under the sign? Mrs. Townshend replied yes.

Mr. Senato questioned if he was correct to say that based on the what was stated by Colonel Ericson, that there is nothing within the City's Zoning Ordinance dealing with these types of signs? Mrs. Townshend replied correct.

Mr. Senato questioned as a point of information even though it is a unique sign, how can one say yeah or nay to a variance when there is no basis of rule for the variance other than the unique type of sign? Mrs. Townshend replied that the Board's role is to consider applications for exceptions from the Code. Since this is not something that is expressly permitted in the Code, it is presumed to be prohibited. It would be the Board's role to determine if something that is otherwise not allowed would be able to be granted.

Mr. Senato questioned whether normally when items come before the Board there is a specific rule in the Code being sought relief from, rather than not, in this case. Mrs. Townshend replied right. The way you read a Zoning Ordinance is that if something is not expressly permitted then it is presumed to be prohibited. Mr. Rodriguez replied that it was a good question. This is a unique case and he could not recall another case that the Board had where it was not covered in the zoning code. He did not think that the Board was setting a precedent because it is an unusual situation and the point is very well taken.

Mr. Senato stated that there may be a low probability that the Board could be setting a precedent because there are other cemeteries within the City and the Board deals with what is already on the books.

Representative: Mr. James Thistlewood, Facility Manager for Wesley United Methodist Church

Mr. Thistlewood was sworn in by Mr. Rodriguez.

Mr. Thistlewood testified that he would defer to any questions the Board might have. He tried to do a good package. They are trying to do several items as far as putting in the archway. They are aesthetically making Dover a better place and a better cemetery entrance. They are trying to cure a long ongoing problem with people not knowing the proper name of the cemetery. The current entrance is very narrow and unsafe. They want to widen and make it safer.

Chairman Sheth stated that it looked good.

Mr. Hufnal questioned whether the applicant already had approval from DelDOT to widen the entrance. Mr. Thistlewood replied yes, they do.

Mr. Hufnal questioned whether the applicant would still widen the entrance if he was not approved for the sign? Mr. Thistlewood replied that they had not gotten that far because he did not think they would be before the Board today. At the current time he is not sure, but it is part of the project and they would have to go back and start again.

Colonel Ericson stated that the criteria that is always a sticking point is would it create an unnecessary hardship or exceptional practical difficulty? He questioned the applicant if there was any reason why he could not use the post and panel sign, and why they needed an archway? Mr. Thistlewood replied that they are trying to stay with traditions of cemeteries throughout the United States that have archways. It is very common amongst cemeteries. They also thought that with the historic value of the area and City of Dover that an archway would be suitable.

Colonel Ericson questioned the percentage of cemeteries that have an archway in the City of Dover. Mr. Thistlewood replied that they own two (2) cemeteries in the City of Dover and neither have an archway. Mrs. Townshend replied that there are probably a little over a dozen cemeteries in the City of Dover: for example, Holy Cross Cemetery, Silver Lake Cemetery, and Presbyterian Cemetery.

Colonel Ericson questioned whether there was a specific timeframe to complete the work right away or if the applicant could wait four months until the Planning Staff requested a change to the code to allow archways. Mr. Thistlewood replied that the DelDOT entrance permit would expire. They need to start the process by June and the contractor is awaiting approval to proceed. If the project is delayed, he is not sure what will happen and the church could lose the DelDOT entrance permit. They were hoping that the application would be approved so that everything could stay within the timeframe of DelDOT entrance permit.

Chairman Sheth questioned the chances of the City amending the ordinance. Mrs. Townshend replied as it relates to Sign Regulations and making amendments there is a Supreme Court case that would require the City to do a total rewrite. The City is aware this needs to happen, but she is concerned about doing a small amendment to the sign code when the City knows there needs to be a large amendment that is going to take months to work on.

Colonel Ericson stated that it was mentioned that this would not set a precedent, but if the Board approved the application or unless the motion included restrictions to cemeteries, he questioned why a restaurant or other property owners would not be able to come in with the same request based upon the Board's decision. Mrs. Townshend replied that they would be subjected to the same criteria. For example, if a restaurant came in they would be asked why they would not be able to use one of the other sign types. Given the proximity of this to State Street and the layout of the cemetery, they have fewer options in terms of other types of signs that they would be able to implement on site than a commercial use on Route 13.

Colonel Ericson commented that he did not have a problem with having an arch sign in this instance. His problem is that there is really no hardship or exceptional practical difficulty that he has seen and that is the criteria that the Board is supposed to use. This is the weakest testimony that he has seen in any case. The City should go back and amend the regulation to allow the arch sign which he feels would be the proper way to do it.

Mr. Rodriguez stated that Colonel Ericson comment was right on point. If the Board decides to grant the variance and it is not limited to cemeteries, it could be wide open for business establishments and things of that nature. However, your point is very well taken.

Mr. Senato commented that based upon the comments made by Colonel Ericson and his comments that continuing on might almost be a moot issue in his opinion. There are a lot of good points and there are a lot of cemeteries that have elegant arches. Based on the circumstances and the comments that were made and his personal feelings that a precedent could possibly be set.

Mr. Keller questioned if the cemetery had more than one entrance. Mr. Thistlewood replied yes.

Mr. Keller questioned the locations of the entrances. Mr. Thistlewood replied one (1) Pennsylvania Avenue and three (3) on State Street. He replied that they are all very narrow.

Mr. Keller questioned if the location under question was generally considered to be the main entrance? Mr. Thistlewood replied that it was considered to be the main entrance and is also the furthest away from any intersecting street so it would not interfere with persons entering or exiting the cemetery.

Mr. Keller questioned if the entrance was gated or closed? Mr. Thistlewood replied that none of the entrances are gated.

Mr. Hufnal questioned if the motion was restricted to cemeteries whether it would set a precedent for other archways, businesses, or organizations. Mr. Rodriguez stated that if the Board decided to grant the variance, the decision would include that it is limited to archway signs for cemeteries.

Colonel Ericson questioned whether the applicant had a chance to read a letter sent to the Board by Mr. Alan George? Mr. Thistlewood replied no. Mrs. Townshend replied that the applicant had not received a copy of the letter. A copy was given to the applicant. The letter was received after the packet had been sent and the letter was not part of the packet.

Mr. Senato questioned whether the letter had to be read into the minutes since it was not part of the packet. Mrs. Townshend replied no. It would be entered into correspondence.

Mr. Keller commented that a hardship and exceptional practical difficulty was one (1) of four (4) criteria that the Board is obligated to give consideration, but not necessarily the sole and most prominent determination to be made as to whether or not there is unusual hardship or exceptional practical difficulty to the owner. Serious consideration is always given.

Mr. Thistlewood asked if the decision could be made today if possible because investments have already been made.

Colonel Ericson questioned whether the applicant had any questions regarding the letter received from Mr. George? Mr. Thistlewood replied no.

Chairman Sheth opened the public hearing.

Mr. Dave Casto was sworn in by Mr. Rodriguez.

In Favor V-17-06

Mr. Casto testified that he was on the Board of Trustees for Wesley Church. One of the things missing and what he has heard is regarding hardship. This is a cemetery that is over 11 acres and has hundreds of plots. There are people who are always asking about the identity to the cemetery. There is no identity to this cemetery and has not been for years. People are unaware of the name of the cemetery. He thinks this may be the biggest cemetery in Dover. When you discuss hardship, the church is trying to erect something and expand the main entrance that is too small. They would like to expand the entrance in a manner that is going to fit in with the neighborhood, look nice, make the City and people who visit the cemetery proud. If you look at cemeteries all over the country, you will see the archway signs. If you take the recommendations provided by Planning Staff, they would agree that when the Zoning Ordinances was created they probably did not even think about these types of signs. He asked the Board to look at the type of structure that is being erected as it will fit in with the neighborhood and the historic nature of the cemetery, and a sign that people would be able to see. The archway will be a very nice addition to the City of Dover. A lot of people come in through State Street and see the beautiful cemetery and there is nothing there to identify it.

Judge Mardi Pyott stated that she was in favor of the application. It is a beautiful historic cemetery that needs to have a name that can be seen by everyone. If you want to look at other cemeteries, you can look at the ones in Camden and Smyrna that are large cemeteries with archways. Nothing else would do it justice, yes; you can change the Ordinance, but the purpose of this hearing is to grant a variance so that the Board does not have to do that. There has been a lot of effort, money, and time expended on this project in order to do this properly. If you want to wait, then you would have to amend the entire code. She asked the Board how long would that take? This would be a beautiful addition. They are not throwing up some cheesy sign that would take away from the history and the beauty of Downtown Dover. This just enhances it.

Against V-17-06

Mr. Glen Hitchens stated that he lives at 630 South State Street directly across from the cemetery and proposed suggested improvement. He would like to point out some of the discrepancies that have already been mentioned. There has been no sign of any type that he recalls seeing for the 30 plus years that he has lived in this area. He is sure that there are permitted signs in the Zoning Ordinance that do not require a variance that would identify the cemetery. The fact that other cemeteries have this type of archway for understanding and identifying the cemetery. There have been ample opportunities to just place a sign that conforms to the existing ordinance on either of the streets that is around the cemetery. The fact is that there has been no sign there for some time. He did not quite understand why there was an issue as the cemetery has been there for many years. He was not sure how many sites are still available in the cemetery. He did not think that the purpose of this sign is an advertisement to identify the fact that there are vacancies in the cemetery. He was still unclear why the sign needed to be placed there. The sign is not in character with the neighborhood and there are no other commercial facilities within the few blocks of this particular area. He did not think the archway sign fits in and for that reason he along with other neighbors would oppose the variance.

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

Board Members Discussion

Chairman Sheth questioned if there was any additional correspondence for the record. There was a letter dated March 11, 2017 from Mr. Alan George who resides at 616 North State Street directly across from the cemetery.

Mr. Keller asked if the letter could be summarized.

Mrs. Townshend stated that Mr. George opposes the variance. He believes that the variance would create visual clutter that is potentially harmful to vehicular and pedestrian safety, decrease his property value, and diminish the community appearance of North State Street. There are seven (7) points in the letter where he challenges some of the justifications for the variance that was provided by the applicant including the historic nature of the cemetery, if the variance would improve traffic safety and improve the character of the neighborhood. He also indicated that what drew he and his wife to Dover 37 years ago was the look and feel of the City. Their first introduction to Dover was a drive down State Street.

Mr. Keller commented that a relatively short receipt of the letter in the absence of Mr. George puts the Board in a position to be unable to cross examine the letter as oppose to him being personally present.

Mr. Senato commented that Mr. George had a several concerns in his letter, and in his opinion it would be easier for him to obtain more answers from him in person rather than in a letter only because he has some serious questions.

Mrs. Townshend stated that the City has always permitted people to submit concerns in writing

and we cannot require that they attend, is that correct? Mr. Rodriguez replied no, you cannot require them to attend the meeting.

Mr. Keller commented that the short coming in Mr. George not being present is the Board is unable to question or give further consideration to the writing.

Chairman Sheth questioned what the Board thought of Mr. Hufnal's previous comment?

Mr. Hufnal also added that archway signs for cemeteries are common, not only in Delaware, but throughout the country. He also looked online at cemeteries with archway signs and they are very common in stone and concrete as huge entrance signs. This is probably the least impact of any kind of sign that could be used for a cemetery that would be within the code regarding square footage. He would recommend granting the variance on the basis that this archway sign is only for cemeteries use (restricted to cemeteries). It would not set a precedent for other archway signs for a type of business.

Mr. Senato stated that there was no proof of hardship and because it is not in the Code bothers him tremendously that the Board is making a decision (yeah or nay) on something that has no guidance other than the fact it is a cemetery sign that the applicant wants placed on the property.

Colonel Ericson stated looking at the criteria and area variance the Board had a letter sent and one person testify that the immediate vicinity that it would have a negative impact. There has been no explanation of hardship or exceptional practical difficulty. There is another way to get to where they want to go by changing the sign regulations.

Mr. Hufnal moved to approve variance application V-17-06 based upon information provided, recommendations from City Staff, but limited to cemeteries use only. The motion was seconded by Chairman Sheth.

Questions:

Mr. Senato stated that his comments are the same as previously stated, along with the comments of Colonel Ericson.

Mr. Keller stated that with what is proposed by the church cemetery use, while in fact that he has not been convinced either that there is necessarily an exceptional practical difficulty. When giving consideration the difficulty must be inherent in the land and not personal to the owner. With the comment regarding the size of the facility and its existing use, etc. does not necessarily roll over to a distinct need for this type of a sign. The unusual difficulty to an owner or exceptional practical difficulty is one of the criteria for items which the Board is obligated to take under consideration in a variance application. He would agree with Staff Recommendations that the proposed sign is in keeping with the character and nature of the use of the property distinctly as a cemetery. He could not contemplate either that this proposed sign would seriously impact the surrounding area (neighborhood). In the opinion that it is a lesser issue of the sign in and of itself which is a distinct identifier for the cemetery itself as opposed to this issue of the height above with the erection of the sign in an archway fashion over the proposed entrance way.

With the restrictions placed within the motion, if approved the variance would not extend to other commercial or business type of uses, but restricted to a cemetery use only. In his opinion, leads him to a position to be giving more favorable consideration to the motion as proposed.

Chairman Sheth questioned whether Mr. Keller wanted to add to the proposed motion? Mr. Keller replied that he thinks that Mr. Hufnal's motion in citing a limitation to cemeteries uses was adequate enough in and of itself. He thinks by any definition cemetery use is distinctive and it is not a restaurant, movie theater, or business office. As stated by Mr. Hitchens he does not contemplate that sign to represent advertisement for that location because it is most likely just about filled out.

Colonel Ericson commented that the Board really does not know what the sign is going to look like. The Board has a pencil drawing of what the post is going to look like, but we do not see what the archway would look like with the name (Lakeside Cemetery) which would have helped a lot. He would feel more comfortable if the Board would table the application until next month and let Mrs. Townshend see the feasibility of how long it would take to amend the code.

Chairman Sheth stated that there is already a motion on the floor.

Mr. Senato stated that there is no indication of the sign and he was unable to question the letter writer. He felt that he was not given the opportunity to progress with more questions from Mr. George or DelDOT. He agreed with Colonel Ericson that the application should definitely be postponed. He is not necessarily in agreement or disagreement with the sign, but he is in disagreement of the way it is being presented.

Chairman Sheth stated that the Planning Staff will address the concerns regarding the amendment of the code.

Mrs. Townshend stated that after speaking with Mr. Rodriguez about that Mr. Senato had more questions for Mr. George who wrote the letter, if you have questions for the applicant and the maker of the motion wants to withdraw the motion, the motion can be taken off the table to bring the applicant back up to ask questions. The person who wrote the letter is not present.

Mr. Senato stated that he understood.

Roll Call Vote

Mr. Keller – **Yeah** – with regard to the variance application V-17-06 and given consideration to the motion as proposed to permit the sign type which is exhibited as an archway type sign and also to permit the sign height of 13-feet above the 7-foot maximum on the urban collector street. He agrees with the Staff Recommendations that the sign is in keeping with the character and nature of the use of that property exclusively as a cemetery. In his estimation, the sign would not seriously impact surrounding areas and uses. With the motion restricting this application to a property utilized as a cemetery use, he votes in the affirmative on the motion.

Colonel Ericson – **No**- after looking at the case, there is a right way and a wrong way to do this

and the right way is to amend the Code. The Board does not have any pictures or drawing of what the sign would look like, so we do not know whether it is in keeping or not with the neighborhood. There has not been demonstration of a hardship or exceptional practical difficulty, and there is no reason why the Board could not wait three months. Therefore, he votes against.

Mr. Senato – **No** – there is no complete description of the sign regarding the code amendment, hardship proof, questions were not asked of Mr. George who was not present, therefore he strongly vote in the negative.

Mr. Hufnal – **Yes** – made the motion and comments restricting it to the cemetery use and also supports Staff comments.

Chairman Sheth – **Yes** – this is a lasting peace and he votes yes.

Motion carried.

Applicant #V-17-07

1032 South Little Creek Road. Craig Reeves has requested a variance from the requirements of the *Zoning Ordinance*, Article 5 §4.7 pertaining to permitted sign types, and a variance from the requirements of the *Zoning Ordinance*, Article 5 §4.9(A)(2) pertaining to the maximum area of window signs. The requested variances would allow construction of an 18.33 S.F. roof sign and to retroactively allow posting of two window signs each covering approximately 60% of their window area. Subject property is zoned C-1A (Limited Commercial Zone). The Tax Parcel is ED-05-077.12-01-02.00-000. The owner of record is Tudor Enterprises LLC.

Exhibits for the Record: Staff report, zoning exhibit, statements and photos submitted by the applicant and Staff, and diagram submitted with the Sign Permit Application. Legal Notice was published in the Delaware State News on March 5, 2017. The public was notified in accordance with regulations.

Mrs. Townshend gave a brief overview of the application.

Mr. Senato questioned whether the sign was going to be placed on the top of the building? Mrs. Townshend replied yes.

Mr. Senato questioned whether all of the signs were above the door on the flat side of the building? Mrs. Townshend replied no, they are located on the roof. They are comparable if you look at the existing tenant spaces. Mr. Senato stated that this sign is above the roof and the others are along the flat and not on top. Mrs. Townshend replied that it was the factor of the vantage point of the sign that is closer to the building. If you look at the other signs, they are above the roof line. What you are seeing is that they are all roof signs. What the applicant submitted for the sign application is showing it closer so that you are looking up at the sign (so it looks higher).

Mr. Senato stated that it looks like the sign is on top of the roof. Mrs. Townshend replied the sign is on top of the roof as well as the others.

Mr. Senato questioned whether it was an A frame roof? Mrs. Townshend replied yes. The pictures were taken across the street where the diagram shows from a closer vantage point. She can see and understand that the perspective is different.

Mr. Keller stated that with the Staff Report he noted that within the information provided there was a comment made that the owner of the property objected to a certain sign being placed on the side of a building. He did not know whether this was in the past or currently. He asked for clarification as the applicant is listed as Craig Reeves and the owner is listed as Tudor Enterprise LLC. Some of the commentary and exhibits reference Snow Day Snow Cones LLC within the application. Do they have a proper sign off or allowance by Tudor Enterprise LLC to allow this to proceed by Mr. Reeves or Snow Day Snow Cones LLC?

Mrs. Townshend questioned who signed the application? Mr. Reeves replied he signed the application.

Mrs. Townshend stated that she did not realize that the property owner did not sign the application. The application was signed by the business owner. She questioned whether on a sign variance if this was allowed. Mr. Rodriguez replied that the application should be signed by the owner.

Mrs. Townshend questioned whether there was an approval and whether the application should be deferred until the owner can sign the application or should it be conditional upon the signing of the owner. She will make sure that there is improvement in the procedure so that the owner signs. Mr. Rodriguez replied that it would be better to postpone the application until the owner signs. Mr. Reeves stated that there would be no problem of the owner signing the application. Mrs. Townshend stated that as advised by Mr. Rodriguez, no decision can be made until the application is signed by the property owner.

Mr. Keller stated that his concern was the variance runs with the land and is not unique to the current user whoever that may be. Mrs. Townshend concurred.

Mr. Senato questioned whether the owner needed to be present if the application was tabled? He wanted to know the procedures. Mrs. Townshend replied that when there is a variance the owner of the property or a representative of the owner is required to sign the application. She did not realize that the signature did not represent the owner of the property. The owner does not have to be present at the meeting, but the person requesting the variance would need to be present.

Chairman Sheth stated that the variance goes with the property and not the tenant.

Mr. Craig Reeves was sworn in by Mr. Rodriguez.

Representative: Mr. Craig Reeves

Chairman Sheth questioned whether there was anything in the back of the sign? Mr. Reeves replied no. He stated that the way the sign is positioned looks as if it is sitting on a gutter. Mrs.

Townshend replied that the sign will be similar to the others, whereas if you are across the street you will see the background of the roof because of the slope.

Chairman Sheth questioned whether the roof could be seen? Mr. Reeves replied yes.

Mr. Keller questioned the discrepancies in the photos submitted with the Staff Report and asked if the applicant took the photographs? Mr. Reeves replied yes.

Mr. Keller stated there are two (2) photographs taken from within the building facing out and a photograph outside the building looking at the front of the structure. From within the building, there is a fair amount of spacing within between the edge of the ice cream cone and the flavors on each side of the window. He questioned the finished product. Mr. Reeves replied that the inside photo was taken beforehand. The photo gives you an idea what it would look like.

Mr. Keller questioned whether the photo that covered the entire window was the finished product? Mr. Reeves replied no.

Mr. Keller questioned whether the Board had a photograph of the finished product? Mr. Reeves replied yes.

Mr. Hufnal questioned whether the 38% was based on the image presented? Mr. Reeves replied exactly. If you look at the letters, they are all different sizes and mainly the center is standard. You want to be able to see through the lettering at all times. This was also done to keep customers inside the building. If you notice, most establishments of this nature are usually held outside. He figured if customers looked at the menu on the outside and once they entered the building, it would be minimal of how many people would be on the inside because they would have already looked at the menu and would be ready to place their order.

Mr. Keller questioned for clarification whether the window sign was complete? Mr. Reeves replied yes.

Mr. Senato questioned whether the applicant provided calculation that the signage is in accordance with the *Zoning Ordinance*? Mrs. Townshend replied that there was an email from Extreme Graphics that indicates that the sign area is 38% of the window, but it does not include the calculation and she did not believe that the measurement reflects the definitions in the *Zoning Ordinance* that the City uses for measuring "sign area".

Mr. Senato questioned whether based on the above information can a logical decision be made today? Mrs. Townshend replied that Planning Staff measured it at 60% and yes, the decision could be made because the applicant have not properly calculated using the definitions that is included in the ordinances.

Mr. Hufnal questioned whether Planning Staff used the calculation of the *Zoning Ordinance* based on the length and width of the sign and the applicant calculated the coverage by the image of the font of the sign. Mrs. Townshend replied exactly.
Mr. Hufnal questioned whether the sign is probably electronically calculated versus Planning

Staff manual calculation of geometric figures? Mrs. Townshend replied yes.

Mr. Hufnal questioned whether between the letters there is clear vinyl? Mr. Reeves replied that it is not clear vinyl. Only the letters are vinyl.

Mr. Hufnal questioned whether it was peel off type lettering? Mr. Reeves replied yes.

Mr. Hufnal questioned whether the open clear area is glass? Mr. Reeves replied yes, it was done for safety reasons and to stay well below the allowed 50%.

Mr. Hufnal commented that he has seen it done on cars and other items whereas when the lettering is peeled off; it is a coverage and not the remaining portion. Mr. Reeves agreed.

Mr. Senato questioned whether the Board was making a decision on two (2) signs (the roof and window)? Mrs. Townshend replied that it was specified on the front sheet where the information is located on the two (2) variances requested.

Mr. Keller questioned whether Staff was aware of any prior variance approvals on this building? Mrs. Townshend replied that she did not believe it was a variance; she believed it was a nonconforming sign that was removed. In the past, the City has allowed a nonconforming sign to be refaced. In this case, the sign face is down, so there is nothing to reface. Therefore, that would be the reason for a variance.

Mr. Senato questioned whether the window writing and signing was a necessity for the business? Mr. Reeves replied that because the space is limited on the inside and there is no place for the sign inside.

Mr. Senato questioned the wall space? Mr. Reeves replied that because it was not open for patrons. Everything was moved forward; therefore, the amount of space is limited in the front half of the building. The remainder of the space is the kitchen area. There is also a short customer area.

Mr. Senato questioned whether the purpose of the window sign and if the business would be open for twelve months or seasonal? Mr. Reeves replied that starting it would be seasonal (April - December). In the future, they are looking to open year round.

Mr. Keller questioned whether if there was a conflict with the peel off and stick on letters and the square footage of coverage, could it be easily overcome by removing perhaps the snow cones up top and over 100 to just state flavors and come down to the amount percentage of coverage? Mr. Reeves replied that all of the letters are boxed in. This is how they come up with the percentage of how much of the window is actually covered. He took one of the pictures with a man walking by on purpose to show so that you could actually see his facial features. Most of the other businesses you cannot see through the lettering on the window. He thinks that he has less lettering and more presentable and professional lettering than any of the other businesses in the plaza area.

Mr. Keller questioned for clarification whether the City was contending that there is approximately 10% more than the allowable 50% coverage by the City's *Zoning Ordinance*? Mrs. Townshend replied yes.

Mr. Hufnal stated that in that extra amount is just measurement and there is still clear glass that you can see through. Mrs. Townshend replied yes, there is a lot of clear glass within that area. One of the differences between this window sign and others is the amount of little words so there is more white clear space within the text rather than if it was large lettering.

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 none.

Mr. Diaz added that when he met with Mr. Reeves upon applying for the variance he told him that he did not think that the owner needed to sign the application. This is the reason the application was not signed by the owner.

Mr. Keller moved to table application V-17-07 until the Board is in receipt of acknowledgement and proper authorization by signature of the current property owner. The motion was seconded by Mr. Senato and was unanimously carried 5-0.

The Board discussed the order of application(s) should there be an attorney or engineer present representing the applicant due to cost. Mr. Rodriguez stated that he would recommend if the applicant is represented by an Attorney that it would be a good idea for the Board to consider that application to go first on the agenda.

Mr. Keller questioned how does staff otherwise prepare the agenda? Mrs. Townshend replied that it is done in order of applications received and sometimes if they presume the application is going to be easy then it will be first on the agenda. Staff is not always aware that an attorney will be present, but can determine if an attorney is present which case he is representing.

Mrs. Townshend mentioned that the applicant from application V-17-07 that was tabled has contacted the property owner to come in and sign the application today.

Applicant #V-17-09

1310-1324 Forrest Avenue. Margaret H. Johnson has requested a variance from the requirements of the *Zoning Ordinance,* Article 3 §27.66 pertaining to the maximum allowed number of stories and allowable height of buildings located with the COZ-1 (Corridor Overlay Zone). Subject property is zoned C-2A (Limited Central Commercial Zone) and subject to the COZ-1. Tax Parcels are ED-05-076.10-01-01.00-000, ED-05-076.10-01-02.00-000, ED-05-076.10-01-03.00-000, ED-05-076.10-01-04.00-000, ED-05-076.10-01-04.01-000. The owner of record is Margaret H. Johnson.

This application represents a resubmission of application V-16-06, initially reviewed by the Board of Adjustment on June 15, 2016 and withdrawn on October 19, 2016.

Exhibits for the Record: Staff report, zoning exhibit, and plans and renderings submitted by the applicant. Legal Notice was published in the Delaware State News on March 5, 2017. 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.

Representative: Mr. Constantine Malmberg, Attorney

Mr. Malmberg stated that the property is located across from Greentree Village Shopping Center, Betsy Ross Pizza is to the east of the subject property, and Ms. June Schamp owns property to the right of the subject property. Ms. Schamp is in support of the project and submitted something in writing to that regard. Owner Margaret Johnson of Betsy Ross Pizza has been a fixture in the City of Dover for over 40 years. A letter supporting the project was submitted.

Mr. Malmberg stated that the property is located in the C-2A and COZ-1 and they are not asking for any variance from the underlying zoning, because it is in the COZ-1 zone that imposes some more requirements on the property absent the variance that brings them before the Board today. There are basically four (4) tests for this application. This is an Area Variance and not a Use Variance. An Area Variance is generally regarded as more favorable because the use is already a permitted use in the underlying zoning district.

Mr. Malmberg stated that the property is zoned commercial with apartments permitted in the zone. The nature of the zone is appropriate for the application. The character of the immediate vicinity and the contained uses therein are basically retail and multi-family. The single-family residences that had previously existed along that corridor are falling by the wayside one by one. There are hardly any left because it is turning into a commercial corridor. He would suggest that this particular application for this property is about as a compatible use as could be for the property. The front portion of the 7,000 square foot retail center is in keeping with the look of both the shopping center and similar properties up and down the corridor. This property backs up to multi-family residential so that you could argue that is a much softer and compatible use then to not have it completely retailed throughout this property, but to have a multi-family that roughly matches what it backs up to. Woodmill Apartments are three story apartment buildings with a gable roof yielding to a roof height of roughly 45 feet. The requested variance for this project is roughly 41 feet. The proposed apartments will be shorter than the Woodmill Apartments. The acid test which asked if the limitation is removed does it cause any pain or suffering or diminishment to the surrounding properties. In this case, the applicant would suggest that this use is probably the most perfect possible use for this piece of property as far as the surrounding properties; it matches the neighbors to the rear and various streetscapes to the front. He did not think a case could be made that it diminishes anyway or otherwise negatively impact the neighboring properties. It probably enhances the other properties in some respect. With regard to the hardship, it is primarily economic and the project will not work unless it can go three stories. The number of units is like the threshold of what works from an economic point of view and from the Engineer's standpoint. Without that

the project would not get built. The property has already been vacant for a number of years. It seems to be a good economic investment in the City. Staff is in agreement with the first three points. They could not spread the remaining twelve (12) units across the rest of the property because the property is subject to DNREC control over bio-infiltration (as he pointed out) and the subterrian infiltration area. To properly treat stormwater which is good for everyone, the area has to be preserved as open space. There is no real way to spread out the additional units. The other point, even if there was a way to do it, this property in this zoning district requires twenty-five open space. This design as presented requires twenty-seven. With the 2% margin, it could not be spread out. Since the Board has been through this application numerous times, he thinks that the Board understands where they are with the significant reduction in the previous request. He hopes the Board will consider the application favorably.

Colonel Ericson questioned whether the new plan dealt with the previous objectives? Mr. Malmberg replied that the only people present today are the supporters of the application. He presumes everyone is happy as he has not spoken directly with Mr. Garfinkel, but he assumed if this was offensive to him, he would have been present at today's meeting.

Mr. Keller questioned whether the Corridor Overlay Zone extends through the full depth of this property? Mrs. Townshend replied yes.

Mr. Keller questioned whether the variance application was approved as submitted and if there was anything to prevent 5-15 years from now that the front retail portion could be demolished redesigned, or reconstructed at the same height of the rear multi-family units proposed. Would there be any objection from the applicant/owner to have a variation of the variance requested to only allow the increase height proposed from a depth of 200 feet to the rear property line or something of that sort? Mr. Malmberg replied yes. He believed the apartments are planned for 234 feet from the front property line, so a 200 feet setback would be fine and welcomed the restriction. Mrs. Townshend agreed.

Mr. Keller stated that he put that forth in consideration that ownership, building design and ideas change as far as construction. It is his understanding that the COZ allows for somewhat of a corridor entrance from the westerly part of the City into Dover, and its purpose was to preclude an upright alleyway of construction. His suggestion would be to continue the original purpose of the COZ, at least with the 200 feet. Mrs. Townshend agreed. Mr. Malmberg welcomed the limitation.

Mr. Senato questioned the location of the entrance? Mr. Malmberg replied that the entrance is on the left as you are facing the site. Mrs. Townshend replied that DelDOT will ultimately tell the applicant where the entrance is going to be. This is where it is planned at this point, but based on their interaction with DelDOT it could move. Mr. Malmberg replied that the entrance does not get designed unless the application is approved by the Board to build. The neighboring properties have had to give up some right-of-way to create right hand turn lanes.

Mr. Keller questioned whether the front retail section exceeded the 35 feet height? Mr. Malmberg replied no.

Mr. Hufnal questioned whether the architecture and site layout is still subject to further review by the Planning Commission? Mr. Malmberg replied yes, at the current time the only request is for the apartments variance to be 6 foot taller in height.

Chairman Sheth stated that the only disagreement that he had was it is not economical to the City. The City has to many apartments.

Mr. Malmberg stated that the smaller apartment buildings are easier to control.

Chairman Sheth questioned the number of units? Mr. Malmberg replied thirty-seven units.

Chairman Sheth opened the public hearing.

Ms. Schamp was sworn in by Mr. Rodriguez.

Ms. Schamp testified that she owns the property at the southwestern corner of Ms. Johnson's property. She did call the City and spoke with Mr. Diaz for clarification regarding the new changes. Mr. Diaz was very helpful. She has stayed informed with the process for roughly a year. She feels that the plan is in harmony with the surrounding environment. She supports the plan.

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

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

Mr. Diaz stated that his conversation with Ms. Schamp was concerning whether the road that leads to her property (June Lane) would need to be widened in order for her property to be sold and redeveloped in the Commercial and Professional Office zone. If the street were to be widened, it would impact the site and further narrow it. This is the reason it is pertinent to this variance because it is cited with potential Exceptional Practical Difficulty.

Mr. Keller stated that in the Staff Report (guide to attachments) the header relates to application V-16-06 and he would like to make sure it reflects application V-17-09.

Mr. Keller asked for clarification whether" renewal" of the restrictions on the applicant property would in no way negatively affect the surrounding areas and properties, he was in hopes that Mr. Malmberg meant "removal" of the restrictions on the applicant's property. Mr. Malmberg replied yes.

Mr. Senato moved to approve variance application V-17-09 as proposed. The motion was seconded by Mr. Hufnal.

The motion was amended by Mr. Keller to include that existing restrictions within the COZ-1 Corridor Overlay Zone on this property remain in full force in effect to a depth of 200-feet, and the variance requested otherwise hereby extends from that point to the full depth of the property. The amended motion was seconded by Chairman Sheth and was unanimously carried 5-0.

Mr. Senato moved to lift application V-17-07 from the table.

Mrs. Townshend stated that the representative of Tudor Enterprise LLC, Linda Shufelt, Legal Representative came in and signed the application.

Mr. Senato moved to approve application V-17-07 as proposed. The motion was seconded by Mr. Hufnal and was unanimously carried 5-0.

Mr. Senato moved to adjourn the meeting, seconded by Mr. Hufnal and unanimously carried 5-0.

Meeting adjourned at 11:18 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary

City of Dover
Board of Adjustment

April 19, 2017

V-17-02 Revised

Location:	341 Saulsbury Road
Applicant:	Pastor Elmer Davis
Owner:	Whatcoat Methodist Church
Tax Parcel:	ED-05-067.19-02-10.00-000
Application Date: Revision Date:	December 14, 2016 March 24, 2017
Present Zoning:	RG-1 (General 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 Approved:	Variance to increase the maximum allowed sign area by 12 SF in order to permit a 24 SF monument sign. Approved by the Board of Adjustment on January 18, 2017.
Variance Requested:	Variance to increase the maximum allowed sign area by 20 SF in order to permit a 32 SF monument sign.

Project Description
The property is located at 341 Saulsbury Road and is occupied by Whatcoat United Methodist Church. The use of the property as a place of worship is a Conditional Use within the RG-1 (General Residence) Zone.

The sign the applicant proposes is a monument sign located on frontage of an Urban Minor Arterial street, located within a residential zoning district. The maximum size for such a sign, under the *Zoning Ordinance* Article 5 §4.7 is 12 square feet.

The applicant previously requested an area variance from the sign regulations in order to allow an increase in the maximum sign area allowed at this location. At its meeting of January 18, 2017, the Board of Adjustment granted an area variance allowing an increase of 12 square feet, in order to permit a 24 square foot sign. The applicant is now seeking a Revision of the variance to allow an increase of 20 square feet in order to permit a 32 square foot sign.

Adjacent Zoning and Land Use
The subject property is zoned RG-1. A portion of the property is also within the COZ-1 (Corridor Overlay Zone). This overlay zone includes provisions related to building and site design that apply to new development, but there are no provisions related to signage.

The immediately adjacent properties are primarily professional office and multi-family residential uses. Properties to the north and across Saulsbury Road to the west are zoned CPO (Commercial and Professional Office Zone) and feature numerous office uses and a day care center. To the south of the subject property is Whatcoat Village Apartments, recently rezoned to RG-2 (General Residence Zone) from RG-1. Further south lies Edgewell Personal Care (formerly Playtex) zoned IPM (Industrial Park Manufacturing Zone).

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

Code Citations
Signage
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 §2.11 and §1.14, and Article 5 §4.3 of the *Zoning Ordinance.* RG-1 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 MHP zone.*

The City of Dover sign regulations distinguish three (3) types of roads for purposes of determining allowable signage. Saulsbury Road 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, and shows the maximum number, sign area, height, and minimum required setbacks and exclusion zones for signs on "All Streets."

The provisions of the *Zoning Ordinance* in Article 3 §1.19, related to signs for permitted conditional uses in the RG-1 district refers to the provisions of the Sign Regulations in *Zoning Ordinance* Article 5 §4. When referring to the "Sign Table" in Exhibit B, and the listing of specific uses in "Residential Uses and Nonresidential Uses in Residential Districts," the code does not specifically address Conditional Uses in such situations. Conditional Uses are addressed in the second section of the table, "Nonresidential Uses Adjacent to Residential Districts or Uses," colored in light purple. 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.

Existing Signage
Building Permit #012577 was issued September 28, 1994 for a 32 square foot internally illuminated monument sign with a brick base and a changeable message area. This sign is proposed for removal, to be replaced by the new sign. The existing sign is shown in Exhibit C. There is also lettering on the wall of the structure; however, this and other existing signage on the site is not pertinent to this revised application.

Proposed Signage
The applicant submitted Sign Permit Application #16-1734 on November 1, 2016 for a 24 square foot internally illuminated monument sign with electronic message center display, to replace the existing sign and be placed in a new location on the site. Following the initial approval of the variance in January 2017, this Sign Permit Application was approved. A new Sign Permit Application has not been received for the proposed 32 square foot sign subject to the application for Revised variance. However, an image of the yet-to-be-installed sign is available in Exhibit D.

An image of the 24 square foot sign originally proposed is available in Exhibit E. The change from 24 square feet to 32 square feet came about as a result of increasing the width of the sign from 6 feet to 8 feet.

While the proposed new sign is the same size as the old sign it is intended to replace, because the sign is completely new and in a new location, the current sign regulations apply. There are no existing legal non-conformities which would allow the 32 square foot sign as it is not proposed as a reface of the existing monument sign.

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 is a conditional use in a residential zone. RG-1. The maximum permitted sign area for this site is 12 square feet. We are asking permission to remove the existing 32 square foot sign and install a 32 square foot Electronic Message Board sign."

   Staff Response:
   As previously noted by Staff, Conditional Uses are not expressly specified in the "Sign Table" in Exhibit B pertaining to the location of this property, but Staff would generally interpret the permitted maximum sign area to be 12 square feet.

   Conditional Uses, such as places of worship are permitted in residential districts. Such uses would be consistent with the nature of the 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:
   "There are several other businesses and an apartment complex that surround the subject site. We have enclosed photos of the businesses [Exhibit C] showing the existing signs on their property all of which are larger than the 12 square feet that we are limited to under the zoning for our property."

   Staff Response:
   Staff concurs with applicant's description of the surrounding area, and additionally notes that the adjacent Whatcoat Apartments property located to the south has an existing monument sign of undetermined size. Staff notes that under the provisions of the current sign regulations, a "Multi-Family Residential Use" would be permitted a 32 square foot monument sign.

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

   Applicant Responses:
   "We do not feel removing this restriction would have any adverse effects on the neighboring properties as we currently have a 32 square foot sign and are requesting to replace it with the same size sign. The new proposed sign would be located further away from the apartment complex than the current sign."

   Staff Response:
   The Saulsbury Road corridor contains a mix of uses, primarily professional office and institutional along this segment, with retail and other commercial uses located farther south. There are numerous monument signs located along the road frontage, and most appear to be about 32 square feet or less.

   The proposed sign is the same size as the sign it is intended to replace. The proposed location is farther away from the adjacent apartment complex and also sited closer to the road.

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:
   "We are looking to remove our existing outdated sign and upgrade to a more functional sign for the church. We cannot accomplish this with a 12 square foot sign. If we were required to go from our existing 32 square foot sign down

to the allowable 12 square foot sign it would create exceptional practical difficulty."

Staff Response:
The proposed sign area at 32 square feet would not be out of character with the use of the property as a church. Many churches throughout Dover have similar signs that display the name of the congregation, hours of services, and also include a message area (either electronic or non-electronic) to display inspirational messages, announcements of events, etc. Other churches may be Conditional Uses in residential zones, or they may be permitted uses in non-residential zones.

In the absence of specific direction in the *Zoning Ordinance* pertaining to the maximum allowable sign area for a Conditional Use in this location, Staff would likely permit a monument sign at a maximum of 12 square feet, which is the most restrictive standard.

Variance Recommendations:
Staff recommends approval of the variance for the 12 square feet increase in sign area for the monument sign to permit a 32 square foot sign for reasons as follows:

- The proposed sign is in keeping with the character and nature of the zone and the permitted Conditional Uses for the zone.
- The proposed sign is in character with the immediate surroundings and would not seriously impact surrounding uses.
- The proposed sign is the same size as the existing sign it is intended to replace.
- 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. A 12 square foot sign would be somewhat undersized relative to the prevailing speeds on the street and the size of the property's road frontage.
- The *Zoning Ordinance* does not specifically address Conditional Uses in cases where they are a nonresidential use in a residential zone, which is an oversight that is intended to be corrected in future amendments to the *Zoning Ordinance.* Conditional Uses are addressed when they are located in a nonresidential zone adjacent to a residential zone; in such a case a 32 SF monument sign would be allowed on an Urban Minor Arterial.
- Limiting the sign area to 12 square feet may impose a hardship on the property since similar establishments are typically entitled to a larger sign area for the same type of use.

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.
- The placement and size of address numbers are not regulated by the Sign Regulations. Contact the Fire Marshal's Office at 302-736-7010 to confirm size and placement.
- A Sign Permit Application must be submitted for review prior to installation of the new sign.

GUIDE TO ATTACHMENTS

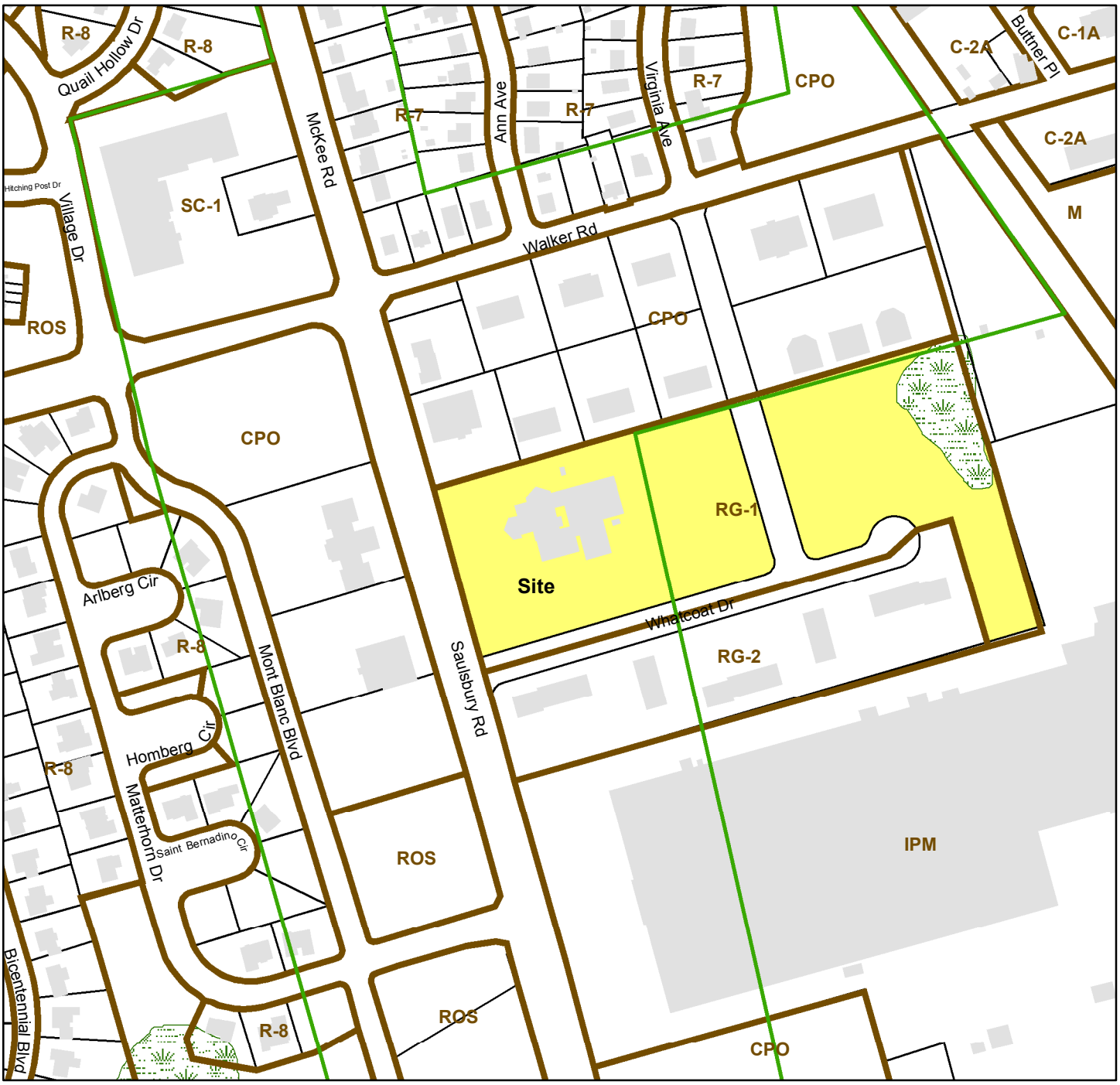
Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	"Sign Table" reproduced from *Zoning Ordinance* Article 5 §4.7 (Staff)	1
C	Images of surrounding properties, aerial photo, images of existing sign. (Applicant)	2
D	Images of proposed sign	2
E	Image of sign approved under original variance	2
F	Decision of Board from January 18, 2017	2

City of Dover

Department of Planning & Inspections

Exhibit A

Application No.: V-17-02



Title: Whatcoat United Methodist Church Monument Sign
Address: 341 Saulsbury Road
Parcel ID: ED-05-067.19-02-10.00-000
Zoning: RG-1, COZ-1
Owner: Whatcoat Methodist Church
Date: 1/12/2017

Legend

- Subject Parcel
- Dover Parcels
- Zoning
- Corridor Overlay Zone
- 2012 Buildings

N
W
E
S

0 175 350 700 Feet

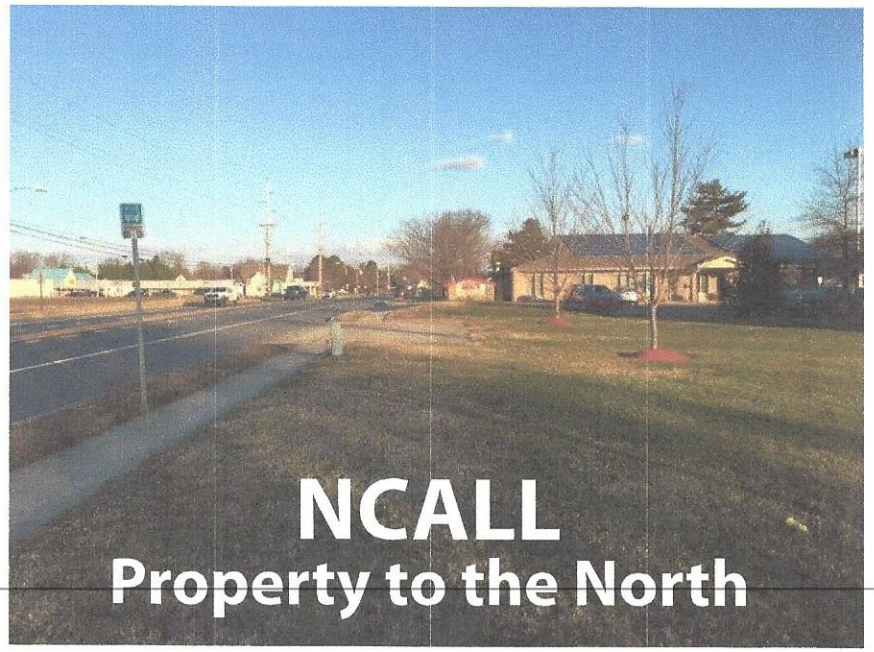
Zoning Ordinance , Article 5 §4.7

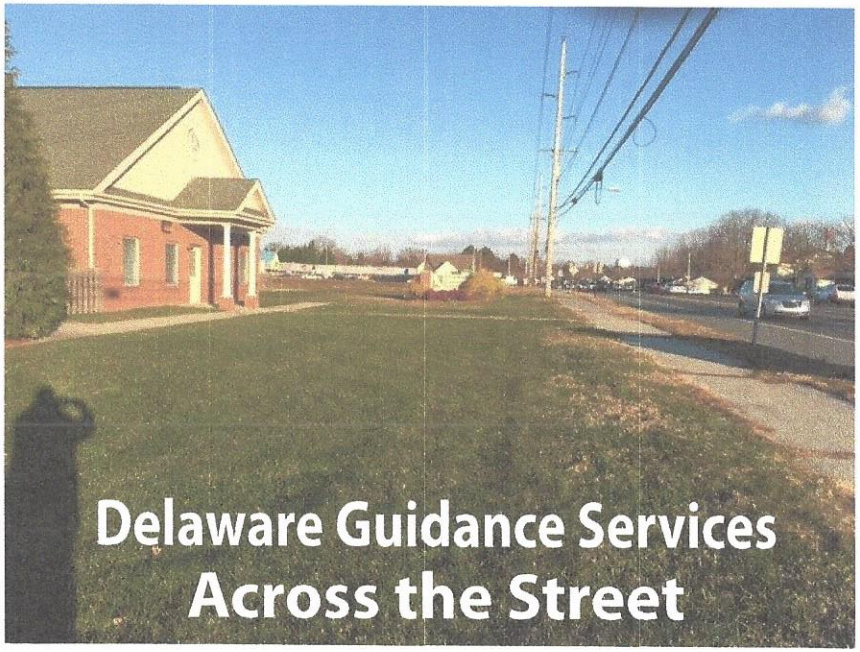
SIGN TABLE									
Use		**Road Type**	**Permitted Signs**						
	Specific		Sign Type	Number Permitted	Max. Size	Max. Height	% of Total Wall Area	Setback (R.O.W.)	Exclusion Zone
Residential Uses and Nonresidential Uses in Residential Districts	Single-Family Detached Semi-Detached	All Streets	Signs permitted 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 Daycare Centers Approved Conditional Uses Educational/ Institutional All Other Approved Nonresidential Uses	Urban Principal 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	10 feet	20 feet
			Post** &	1/frontage	16 S.F.	7 feet	N/A	5 feet	5 feet
			Pylon*	1/frontage	32 S.F.	30 feet	N/A	30 feet	50 feet
		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
		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
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	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.


WHATCOAT
UNITED METHODIST CHURCH
SUNDAY
WORSHIP
SERVICE
REV ELMER N DAVIS Jr.
Existing 4'x8'
To be removed


NCALL
Property to the North


Delaware Guidance Services
Across the Street


Kids Cottage
Across the Street

Exhibit C

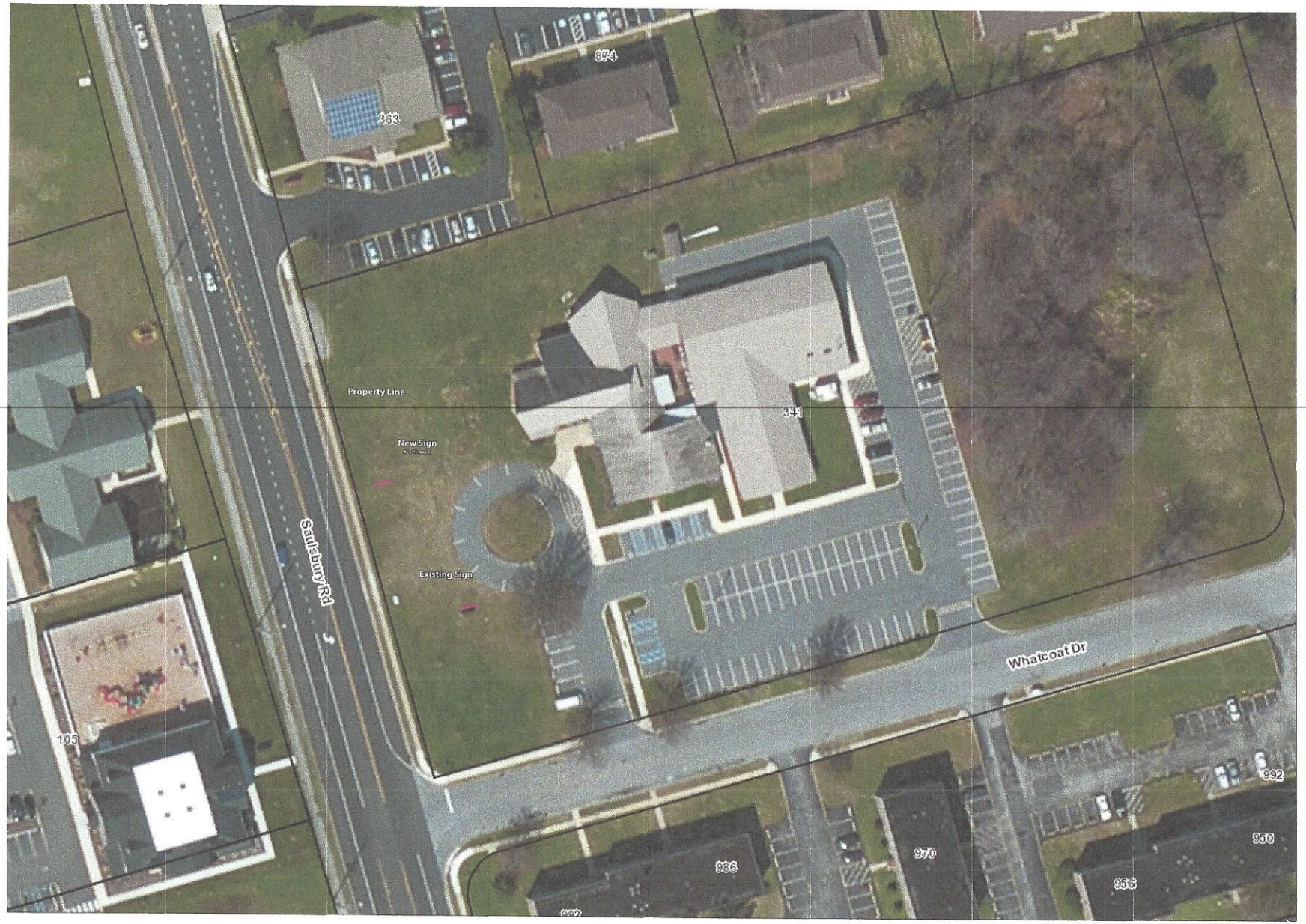
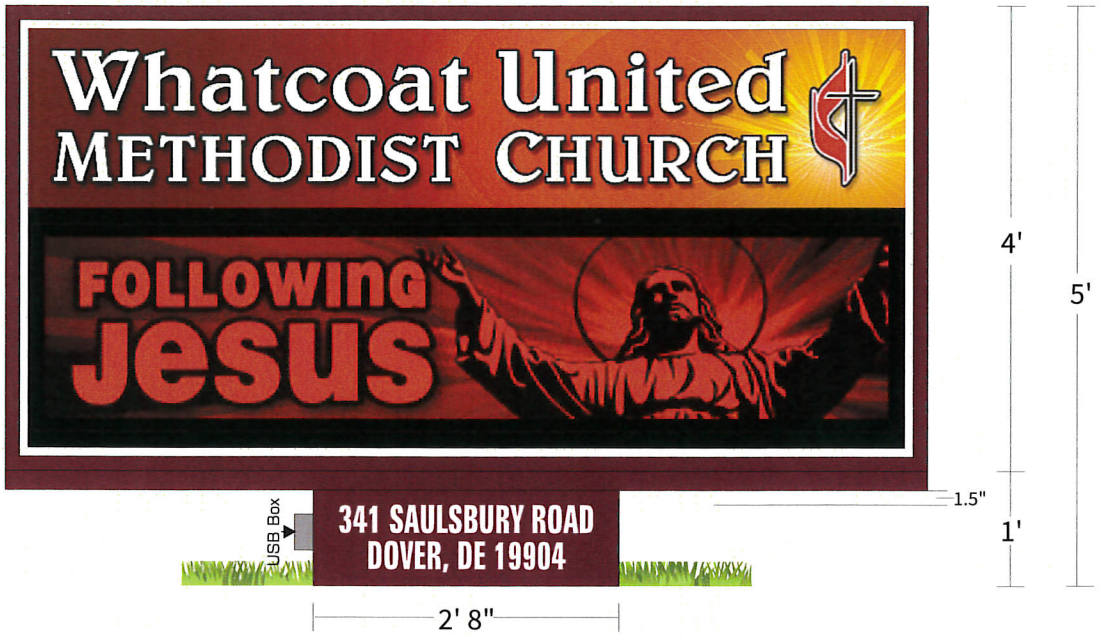

874
363
Property Line
New Sign
341
Existing Sign
Salisbury Rd
Whatcoat Dr
105
992
950
970
966
958

Exhibit D



Tekstar Capabilities

18.9"

CAPABLE OF DISPLAYING
1 TO 3 ROWS
5.5" TO 18.9" CHARACTERS

For Full Capabilities go to stewartsigns.com

TekStar Red
20mm 24x112
CABINET SIZE: 4' x 8'

Vinyl Color: Photoreal	Paint Color: Burgundy
Text Color:	Draft: White
Cowling Text Vinyl: 3" White	SIGN DESIGN #

GRAPHICS DISCLAIMER: This custom artwork is not intended to provide an exact match between ink, vinyl, paint, or LED color. Brickwork, masonry and landscaping is not included in the proposal. Measurements shown are approximations; dimensions of final product may vary. LED images shown are simulated to replicate optimum viewing distance. Sign is designed to be illuminated at all times. Sketches are based off of this premise.

Approved as shown

Date

Approved with listed changes

Date

stewartsigns
America's Premier Sign Company

5/8"=1'
Sk: 888750-2b-s
Cust: 3024784
10/13/2016
O/mDeutschle
SOLD

ORIGINAL DESIGN DO NOT DUPLICATE

PH. 1-800-237-3928 - FAX 1-800-485-4280

45+ Years EXPERIENCE



H6PR888750-2b-s

Flat Surface Dimensions: 18.625" x 91.875"

With Bleed: 19.125" x 92.375"

Vinyl Color: Photoreal	Paint Color: Burgundy
Text Color:	Draft: White
Cowling Text Vinyl: 2.5" White	SIGN DESIGN #

GRAPHICS DISCLAIMER: This custom artwork is not intended to provide an exact match between ink, vinyl, paint, or LED color. Brickwork, masonry and landscaping is not included in the proposal. Measurements shown are approximations; dimensions of final product may vary. LED images shown are simulated to replicate optimum viewing distance. Sign is designed to be illuminated at all times. Sketches are based off of this premise.

Approved as shown

Date

Approved with listed changes

Date

stewartsigns
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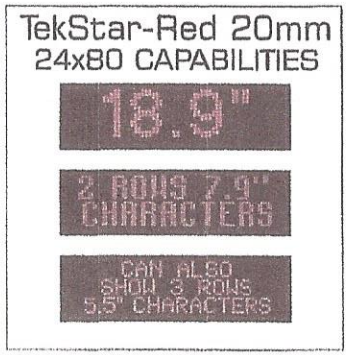
45 Years EXPERIENCE

Exhibit E

Photorealistic Header
Paint Color: Burgundy
Draft: White
Cowling Text: White 3" Lettering



TekStar-Red
20mm 24x80
CABINET SIZE: 4'x6'



Approved as shown. x _____ date _____ 1. _____
Approved with listed changes x _____ date _____ 2. _____ 3. _____

Stewart
AMERICA'S PREMIER SIGN COMPANY
PH. 1-800-237-3928 FAX 1-800-485-4280

DUE TO THE PHYSICAL LIMITATIONS OF THE PAPER AND INK-BASED PRINTING PROCESS THIS CUSTOM ARTWORK IS NOT INTENDED TO PROVIDE AN EXACT MATCH BETWEEN INK, VINYL, PAINT, OR LED COLOR. ARTIST'S RENDITION OF BRICKWORK, MASONRY AND LANDSCAPING IS NOT INCLUDED IN THE PROPOSAL. ANY MEASUREMENTS SHOWN ARE APPROXIMATIONS; DIMENSIONS OF FINAL PRODUCT MAY VARY. LED IMAGES SHOWN ARE SIMULATED TO REPLICATE RESOLUTION FROM OPTIMUM VIEWING DISTANCE.

5/8"=1' SK#762519-4 CUST#3024784 6-29-12 O/MDEUTSCHLE SOLD

ORIGINAL DESIGN DO NOT DUPLICATE

CITY OF DOVER, DELAWARE

BUILDING ZONE ORDINANCE
DECISION

Case No. V-17-02 Dover, Delaware

Applicant/Owner: Pastor Elmer Davis/Whatcoat Methodist Church Date: January 18, 2017

Decision of the Board of Adjustment on the Application:

STATEMENT OF FACTS

This is an Application by Applicant Pastor Elmer Davis and Owner Whatcoat Methodist Church requesting an area variance from the requirements of the sign regulations in Zoning Ordinance Article 5, Section 4.7, to allow an increase in the maximum sign area for a monument sign located on frontage of an Urban Minor Arterial Street located within a residential zoning district. The use of the property as a place of public assembly, such as a church, is a Conditional Use within the RG-1 (General Residence Zone). The property is located at 341 Saulsbury Road and is in the COZ-1 (Corridor Overlay Zone). The subject property is considered a Conditional, non-residential use located in a residential zone as defined by Article 3, Section 2.11, Section 1.14, and Article 5, Section 4.3 of the Zoning Ordinance. Article 5, Section 4, which refers to a sign table listing uses as Residential, Uses, and Non-residential Uses in Residential Districts, does not specifically address Conditional Uses, so the interpretation of Staff is for the minimum area of monument signs which is 12 square feet. The application is for a 24-square-foot, internally illuminated, monument sign with an electric message center display which will be moved to a new location on the site. This will replace an existing sign which is larger in square footage than the proposed, new sign.

DECISION

The Board voted unanimously to grant the Application for the variance for a 24-square-foot, monument sign as described in the Application (Vice Chairman Col. Ericson; Mr. Hufnal; Mr. Keller; and Mr. Senato).

In approving the Application for the variance, the Board considered the nature of the Zone in which the property lies which is a Conditional Use in a Residential Zone, which permits Conditional Uses such as churches or places of public assembly, so that the present use of the property is consistent with the Zone.

The Board also considered the character of the immediate vicinity and the contained uses therein, which included other businesses in the area and an apartment complex that surrounds the subject site, where monument signs exist which are larger than 12 square feet in area. Particularly, Whatcoat Apartments located to the south of the existing property has a monument sign of

undetermined size, and Staff noted that, according to the sign regulations, a multi-family residential use would be permitted a 32-square-foot monument sign.

The Board next considered whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses, and it was apparent that the Saulsbury Road corridor contains a mix of uses, primarily professional office and institutional uses with retail and other commercial uses located farther south. There are numerous monument signs located along the road frontage, and most appear to be about 32 square feet in area or less.

Finally, the Board considered whether, if the restriction were not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the Owner and the Applicant in its efforts to make normal improvements in the character of the use of the property that is a permitted use under the provisions of the Zoning Ordinance, and the Board noted that a 24-square-foot monument sign would not be out of character with the use of the property as a church, noting that many churches throughout the city have similar signs. Limiting the sign area to 12 square feet would impose a hardship, since similar establishments are typically entitled to a larger sign area for the same type of use.

Col. Ericson, Vice Chairman

cc: Building Inspector

NHR:chz

City of Dover

Board of Adjustment

April 19, 2017

V-17-10

Location:	1011 South Governors Avenue
Applicant:	Thomas Deladvitch
Owner:	Deladvitch Real Estate Investment Trust
Tax Parcel:	ED-05-077.17-07-04.00-000
Application Date:	March 13, 2017
Present Zoning:	C-1A (Limited Commercial Zone)
Present Use:	Professional office
Reviewed By:	Eddie Diaz, Planner I
Variance Type:	Area Variance
Variance Requested:	To retroactively allow the use of barbed wire on a fence adjoining a residential zone

Project Description

The applicant is seeking a variance from the requirements of *Zoning Ordinance,* Article 5, §7.5 as they relate to permitted locations for barbed wire fencing. Specifically, the applicant seeks to permit barbed wire fencing along a portion of his rear property line which adjoins property zoned RGO (General Residence and Office Zone). The section specifically prohibits barbed wire fencing along property lines which adjoin residential zones, including RGO.

The applicant, who runs a State Farm insurance sales office on the property, in February 2017 erected a barbed wire fence enclosure at the rear of the site to protect storage trailers and other property he owns. The enclosure measures 40 feet length by 45 feet depth (1,800 S.F.). It was erected under approved Building Permit #17-148; however, the barbed wire on the rear side was not approved by the permit. Though barbed wire runs along the top of all four sides of the enclosure, only the side adjacent to the rear property line is subject to this variance.

Adjacent Land Uses

The property is located on South Governors Avenue south of Wyoming Avenue. Other nearby streets include Jefferson Terrace, which intersects Governors Avenue south of the property, and South Bradford Street, which intersects Wyoming Avenue east of the property.

The property is in an area with a variety of different zoning classifications. The property itself is the northernmost in a row of nine parcels zoned C-1A (Limited Commercial Zone) which stretch south to the City limits. Between the property and Wyoming Avenue are three vacant lots zoned CPO (Commercial and Professional Office Zone). Directly across from the property, between Jefferson Terrace and Wyoming Avenue, are two lots, one zoned C-1 (Neighborhood Commercial Zone) and one zoned C-1A. South of Jefferson Terrace, facing the block the property is on, are a row of five parcels zoned R-8 (One-Family Residence Zone). Finally, directly behind the property is a single large parcel zoned RGO which also stretches south to the city limits.

Uses in this area include a preschool and an animal hospital across the street from the property, a physical therapy center to the immediate south, a pharmacy and a church farther south, and a number of one-family residences, not all of which are in the R-8 zone. The parcel zoned RGO behind the property is occupied by the Delaware Solid Waste Authority's (DSWA) administrative offices. The DSWA has its own opaque vinyl fence which runs along the rear of the applicant's property.

A Zoning Map Exhibit (Exhibit A) prepared by staff is found in the attachments to this report.

Code Citations

Article 5, §7.5 of the *Zoning Ordinance* gives regulations for fencing in nonresidential zones such as C-1A (emphasis added):

> *7.5 Fences. Fences or walls shall be limited to a maximum height of four feet above the ground when situated in front yard areas, and shall be limited to a maximum height of eight feet above the ground when situated within side and rear yard areas. Fences situated on corner lots shall be subject to the provisions of article 5, section 1.3. For the purposes of this provision, on lots with dual street frontage that are not corner lots, a fence situated to the rear of the principal structure shall be limited to a maximum height of eight feet above ground. Fences or walls with a height in excess of eight feet above the ground shall conform to the setback requirements for dwelling buildings as set forth in article 4 of this Appendix.* ***Fence material commonly referred to as "barbed wire" and/or "razor wire," or any similar material shall be prohibited along property lines which adjoin residential zones.***

According to *Zoning Ordinance* Article 12, the RGO zone 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 MHP zone.*

The rear side of the applicant's new enclosure is located two (2) feet away from the property line he shares with the Delaware Solid Waste Authority. The Code does not specify exactly how far away a fence has to be from a property line to no longer be considered "along" the property line. However, Staff interpretation is that the barbed wire fence would have to be far enough away to meet the setback requirements for buildings, similar to the requirement for fences taller than eight feet noted in the same section. According to *Zoning Ordinance* Article 4, §4.14, the fence would therefore have to meet a rear yard setback of fifteen (15) feet in order to be allowed barbed wire.

Applicant's Proposed Project

The layout of the applicant's property prior to erection of the enclosure is shown in a survey dated July 18, 2005 on page 12 of Exhibit C. The site contains an office building on the south side of the property, a parking lot for customers on the north side, and a gravel area in the rear, which has entrances from the parking lot and also the parking lot of the neighboring property to the south. The plan shows this gravel area and a portion of the yard surrounded by a combination of chain link, wood, and wire fencing. Based on photos provided by the applicant and street view imagery, it appears portions of the old fencing were taken down sometime prior to erection of the new fence.

On February 11, 2017, the applicant applied for a Building Permit (Permit #17-148) to construct 170 linear feet of 6-foot-tall chain link fencing with privacy slats, in order to form the 1,800 S.F. fence enclosure. The permit application included contractor specifications, shown on pages 15 and 16 of Exhibit C, showing that barbed wire would be put on top of all sides of the fence. Seeing this Planning Staff issued the permit under the condition that barbed wire not be installed along the rear property line, as shown on page 14 of Exhibit C. Barbed wire was permitted on the other three sides of the enclosure. The approximate location of the fence enclosure is shown in Exhibit B.

Once the applicant received the approved Building Permit and saw that barbed wire could not be installed on the rear side of the enclosure, he directed his contractor to install barbed wire on that side anyway and went to the City to ask how he could get that section

of barbed wire permitted. Planning Staff informed him that the only way to get a permit for barbed wire in that location would be through a variance.

If the variance is not granted, the applicant will be required to remove the installed barbed wire from atop the rear side of the fence enclosure.

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 zone property lies is C1-A zone."

   Staff Response:
   The C-1A Limited Commercial zone permits retail stores, service and personal service establishments, restaurants, business, professional, and governmental offices, one family residences, and multi-family residences. It is an ideal zoning classification for the area because it permits a mix of residential and commercial uses, and conversion between them. The insurance office building itself is a converted residence.

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

Applicant Response:
"The area in question is used for two (2) purposes. I and my team members have to attend company meetings off sight [sic] monthly/quarterly throughout the year. The meetings are presented by State Farm or another professional organization so as to maintain our licensing and/or for changes in the insurance industry. As an employer it is my job to provide a secure area for my team and my personal property while away on business. Additionally, I use the area to store my personal trailers when I am not using them. I had privacy panels installed after speaking with my neighbors on three (3) sides (the back is hidden from view by the vinyl fence installed by the Delaware Solid Waste Authority Offices)."

Staff Response:
As previously stated, the area is a mix of one-family residential uses and commercial uses. The area of the City in which the property lies, stretching roughly from Bayhealth-Kent General Hospital south to the City limits between Governors Avenue and State Street, has long been known to Planning Staff as an area in transition, with fewer residential and more commercial uses over time. The commercial uses are mostly offices, and many of them, including the applicant's office, are in converted residential structures.

Based on the character of the area, the overall appropriateness of a fenced enclosure for storage, which has an almost industrial feel to it, is of some debate. All of the City's commercial zones have an Enclosed Buildings provision stating that "all permitted uses and all storage accessory thereto, other than offstreet parking, shall be carried on in buildings fully enclosed on all sides." However, the items stored outdoors described in answer 3 below, including lawn furniture and grills, may be permitted under *Zoning Ordinance* Article 5 §1.9, which specifies that items designed for outdoor use may be stored outdoors in an "orderly fashion." This section applies specifically to residential zones, but may also be applicable here because the property being stored is personal property rather than material for the business. Trailers are not required to be stored indoors; instead, *Zoning Ordinance* Article 6 §1.2 requires they be screened, which the fenced enclosure accomplishes.

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

Applicant Response:
"In my opinion there would be no negative impact to our neighboring properties by approving the variance to allow the use of barbed wire on the rear fence of my property. Prior to the installation of the fencing we had several items stolen (Christmas ornaments/lights, gas barbeque grill, picnic table, chairs, and our umbrella). My neighbors at Delaware Solid Waste Authority Offices & Pivot Physical Therapy and I have already found drug needles, clothes, as well as condoms on our properties. As expressed by Jerry Smith's article in The News Journal; *Big-city crime seeping into Dover* dated September 7, 2016 (see the copy attached [Exhibit C pages

4-8]) local residents and businesses are under siege with the increase in crime as compared to 2015. Before the installation of the fencing I was made aware of the existing barbed wire fencing between the Delaware Solid Waste Authority Offices and properties on S. Governors Ave. within 300' of my property (see attached photos [Exhibit C pages 9-10]). I'm not suggesting that the use of barbed wire between the described properties will stop the theft and drug related issues we are all experiencing 100% by any means. However, the use will increase the security for all of my neighbors, my team and myself by deterring additional thefts of my personal property as well as restricting solicitation in said areas."

Staff Response:
The applicant consulted with neighbors about the fencing and obtained letters of support from eleven (11) property owners, shown in Exhibit C on pages 23-33. The most important of these is from the Delaware Solid Waste Authority, whom the barbed wire directly impacts.

In addition to showing support for the new barbed wire, it appears that the Authority has not been negatively impacted by the barbed wire previously installed on the other properties the applicant references above. This barbed wire fencing appears to be mostly located behind the pharmacy at 1035 South Governors Avenue. This fencing could be considered nonconforming under the current *Zoning Ordinance*, if it was installed before the current restrictions on barbed wire were added.

It is worthwhile to consider whether future property owners in the area may be negatively impacted by the barbed wire even though current property owners say they support it. The restriction on barbed wire fencing is designed to protect residential uses. The ongoing transition from residential to commercial uses in this area of the City has been one-way, with few, if any, commercial uses being redeveloped for residential. Though the DSWA's property could readily be redeveloped for residential uses given its RGO zoning classification, staff considers this unlikely.

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:
"During the S. Governors Ave reconstruction project in 2009-2011; I worked with Jim Satterfield and the City of Dover Planning Department. At that time the reconstruction added a 14' center turning lane (which is right in front of my parking lot entrance), 2 – 3' grass buffers, 2 -5' sidewalks, 2 – 11' travel lanes and 2 – 5' shoulders. Because of the reconstruction we lost 2 valuable parking spaces for my customers as well as team members. I asked the city if it would be possible to pave the rear area of the building for more parking spaces and was told no. During the

conversation I was told that parking spaces are determined by the square footage of the business and that currently I cannot add anymore by paving the rear of my building.

This year before starting the fence project I called the City of Dover planning office and spoke with someone that told me that I could come 20' or more off my rear property line if I wanted to for the fencing and include the barbed wire on all four (4) sides or install the fencing and apply for a variance. The problem with locating the fenced area 20' off the rear property line would mean I would lose an additional 2 parking spaces. Losing more parking would cause my customers and team members more issues and lost revenues.

On a side note; the reconstruction as well as the turning lane in front of our entrance has cost us over $34,000.00 in revenues due to the loss of policyholders since 2009.

Lastly, I looked at the feasibility of having a guard dog within the fenced area and not installing barbed wire. The cost of the dog breed, training, veterinarian expenses, feeding and installing an additional shelter was more costly. Additionally, I and my neighbors were concerned about the dog barking throughout the night and weekends creating more of a disturbance."

Staff Response:
To demonstrate unnecessary hardship or exceptional practical difficulty in this case, the applicant must show two things: first, that the fence enclosure could not be constructed in a different location on the property away from the property line, and second, that other security measures allowable by Code are ineffective or unfeasible.

For the first point: as the applicant states, if the fenced enclosure were to be moved fifteen feet away from the property line and keep its current dimensions it would encroach on the parking lot. Two parking spaces would be impacted if the fence enclosure were moved fifteen feet west toward Governors Avenue. Following Code amendments in 2014[1], the bulk standards for the C-1A zone changed so that the zone no longer has parking minimums or maximums. However, the property is still allowed to have parking to meet its needs. Given the hardship imposed by the removal of two parking spaces in 2009, it is likely that removing two additional spaces would pose similar hardship.

It is possible the fenced enclosure could be reconfigured within the rear yard to avoid impacting the designated parking area, either by making it longer and skinnier or simply by shrinking it. If the enclosure were shrunk, however, it might not fit all of the things the applicant needs to store inside. The applicant should provide further information on what is being stored to justify the enclosure's large size. If the enclosure were made more rectangular, on the other hand, it could have the

[1] Ordinance #2014-08, adopted July 14, 2014

same amount of storage space, but might not have the maneuvering room necessary to get the trailers out of it.

For the second point a number of different security measures may be considered. The most obvious would be an enclosure without barbed wire; however, as noted in the "applicant's proposed project" section above, the rear yard of the property was previously fenced in, and this apparently was not enough to deter theft. In the past when businesses have had outdoor storage issues the Planning Office has recommended constructing a storage shed; however, multiple trailers would not fit inside such a structure.

The applicant already has security cameras in use as shown in Exhibit C page 19. Visible security cameras are known to deter criminal activity, but the cameras may not provide the level of deterrence the applicant needs. Finally, Staff concurs with the applicant that a guard dog would be an undesirable alternative to the barbed wire in terms of the potential negative impact on neighbors.

Variance Recommendation
Staff recommends approval of the variance to allow barbed wire along the rear property line for the following reasons:

- The named items being protected may be reasonably stored outside.
- Current neighbors, including the neighbor directly adjacent to the barbed wire, have given their support to the variance.
- A future residential use along the affected property line is unlikely due to the redeveloping nature of the area.
- It does not appear the enclosure could reasonably be located elsewhere on the site or in a different configuration.
- Other security measures that have been or could be taken do not provide the level of security needed or would require unreasonable expense and effort to implement.

Advisory Comments to the Applicant

- If the variance is not approved, the barbed wire will be required to be removed from the rear property line.
- Pending the outcome of the variance request, implementation must be completed in order to complete construction activity. The Building Permit is subject to Final Inspection of completed work.

GUIDE TO ATTACHMENTS

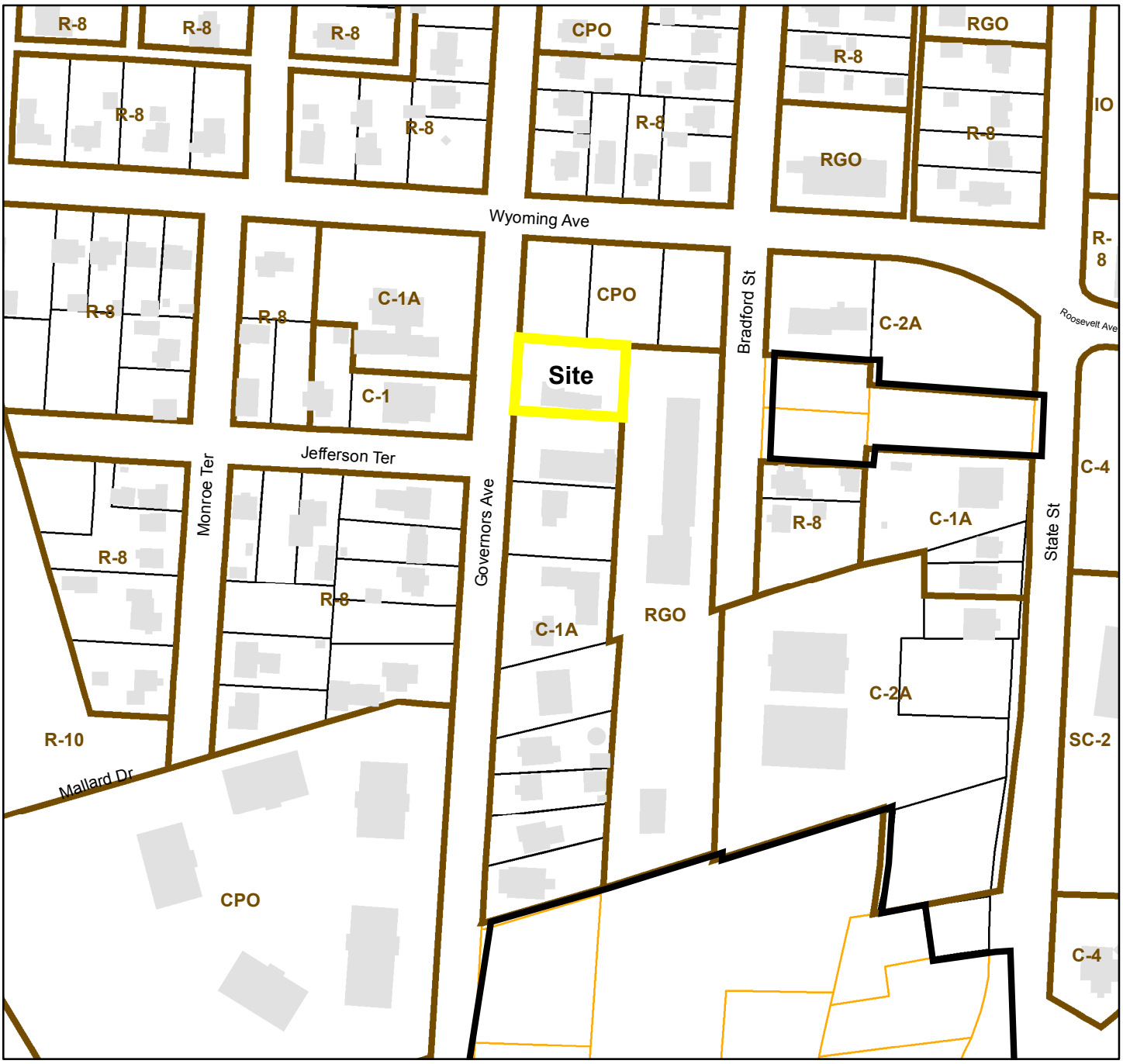
Exhibit	Description/Author	# Pages
A	Zoning Map Exhibit (Staff)	1
B	Plot Plan with approximate fence enclosure location (Applicant)	1
C	Applicant submission (Applicant)	35
	Table of contents:	
	Board of Adjustment Application Form	Page 1
	Applicant Responses	Pages 2-3
	Article: "Big-city crime seeping into Dover"	Pages 4-8
	Photos of barbed wire at 1035 S. Governors Ave	Pages 9-10
	Tax Map with applicant's property highlighted	Page 11
	Plot Plan dated July 29, 2005	Page 12
	Building diagram	Page 13
	First page of Building Permit #17-148	Page 14
	Contractor specifications for enclosure	Pages 15-16
	Sample letter of support	Page 17
	Project narrative	Page 18
	Photos of security cameras on applicant's property	Page 19
	Photos of applicant's barbed wire fence enclosure	Pages 20-22
	Letters of support from neighbors	Pages 23-33
	Application for Mailing List Form	Page 34
	Project Contact List Form	Page 35

City of Dover

Department of Planning & Inspections

Exhibit A

Application No.: V-17-10



Title: Lands of Deladvitch Real Estate Investment Trust
Address: 1011 South Governors Avenue
Parcel ID: ED-05-077.17-07-04.00-000
Zoning: C-1A
Owner: Deladvitch Real Estate Investment LLC
Date: 4/12/2017

Legend

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

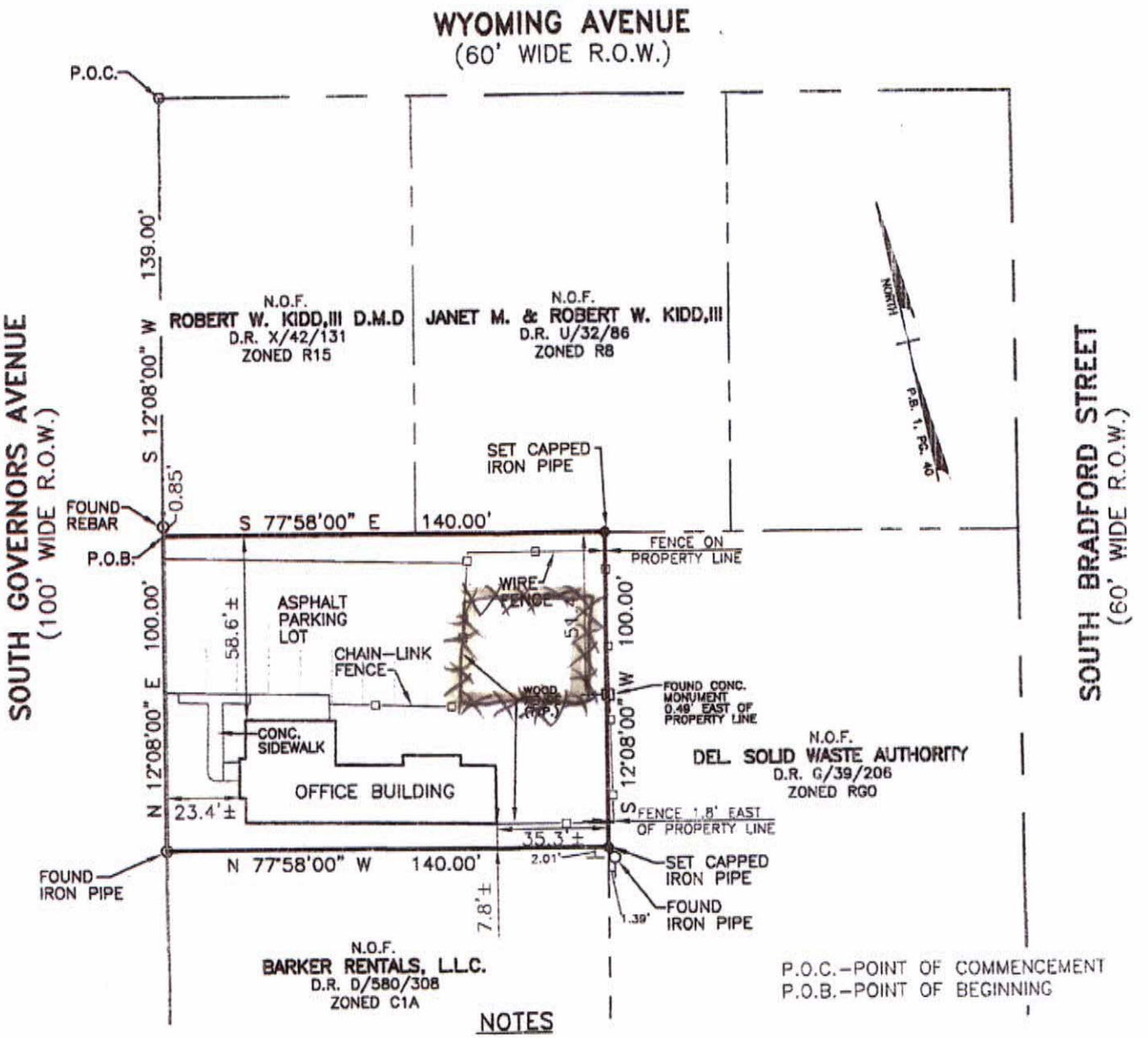
N W E S

0 125 250 500 Feet

Revised plan

Exhibit B

M:\M3100s\00-49\M-3139\THOMAS M. & LOIS DELADVITCH\dwg\MS-DELADVITCH.dwg 7/29/2005 9:12:14 AM EDT



NOTES

1. TAX MAP PARCEL NO. ED-05-077.17-07-04.00-000
2. ZONING: C1A (FRONT YARD: 25'; MIN. SIDE YARD: 15' or 25' ADJOINING RESIDENTIAL; REAR YARD: 15')
3. SELLER: BRUCE W. CLIFFORD (DEED REFERENCE O-53-170, P.B.1, PG.40)
4. LOT AREA = 14,000 SQ.FT. (0.3214 ACRES)
5. DATE OF FIELD SURVEY- 7/18/05
6. PROPERTY MAY BE SUBJECT TO RESTRICTIONS AND EASEMENTS DESCRIBED IN DEED RESTRICTIONS OR AS FOUND IN SUBSEQUENT TITLE SEARCH.
7. THIS PLAN SHALL NOT BE REPRODUCED, TRANSMITTED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER RESPONSIBLE FOR ITS CONTENTS.
8. 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
9. DECLARATION IS MADE TO ORIGINAL PURCHASER OF SURVEY. SURVEY IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF ENGINEER.
10. NO TITLE EXAMINATION FURNISHED TO OR PERFORMED BY THE PREPARERS HEREOF.

APPROVED
City of Dover - Dept of Planning

PARCEL SURVEY PLAN

OF

SOUTH DOVER ACRES, LOT NOS. 23 & 24
1011 SOUTH GOVERNORS AVENUE
DOVER, DE

Name Kristen Mullaney
Date 2/10/17
Permit # 17-148

City of Dover, DE
Department of Planning and Inspections
P.O. Box 475, Dover, Delaware 19903
(302) 736-7010 Fax: (302) 736-4217
www.cityofdover.com

_____ Area Variance
_____ Use Variance
_____ Appeal
_____ Pre-App Date

Board of Adjustment Application

Application Information

Property Address: 1011 S. Governors Ave

Tax Parcel Number: 2-05-07717-07-0400-00001

Owner Name: Deladvitch Real Estate Investment trust

Property Zoning: C1-A

Variance (s) Requested: To Allow the use of barbed wire on the rear portion of my fence adjoing Delaware Solid Waste Authority Administration Offices.

*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 See attached

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 Thomas Deladvitch 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.

Signature | Owner (Title) | 3-13-2017 (Date)

AREA VARIANCE QUESTIONS 1 – 4

(From Board of Adjustment Application)

Question #1: The nature of the zone in which the property lies;

Answer #1: The zone property lies is C1-A Zone.

Question #2: The character of the immediate vicinity and the contained uses therein;

Answer#2: The area in question is used for two (2) purposes. I and my team members have to attend company meetings off sight monthly/quarterly throughout the year. The meetings are presented by State Farm or another professional organization so as to maintain our licensing and/or for changes in the insurance industry. As an employer it is my job and responsibility to provide a secure area for my team and my personal property while away on business. Additionally, I use the area to store my personal trailers when I am not using them. I had privacy panels installed after speaking with my neighbors on three (3) sides (the back is hidden from view by the vinyl fence installed by the Delaware Solid Waste Authority Offices).

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

Answer #3: In my opinion there would be no negative impact to our neighboring properties by approving the variance to allow the use of barbed wire on the rear fence of my property. Prior to the installation of the fencing we had several items stolen (Christmas ornaments/lights, gas barbeque grill, picnic table, chairs and our umbrella). My neighbors at Delaware Solid Waste Authority Offices & Pivot Physical Therapy and I have already found drug needles, clothes as well as condoms on our properties. As expressed by Jerry Smith's article in The News Journal; *Big-city crime seeping into Dover* dated September 7, 2016 (see the copy attached) local residents and businesses are under siege with the increase in crime as compared to 2015. Before the installation of the fencing I was made aware of the existing barbed wire fencing between the Delaware Solid Waste Authority Offices and properties on S. Governors Ave. within 300'

of my property (see attached photos). I'm not suggesting that the use of barbed wire between the described properties will stop the theft and drug related issues we are all experiencing 100% by no means. However, the use will increase the security for all of my neighbors, my team and myself by deterring additional thefts of personal property as well as restricting solicitation in said areas.

Question #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 charter of that use of the property that is permitted uses under the provisions of the zoning ordinance;

Answer #4: During the S. Governors Ave reconstruction project in 2009-2011; I worked with Jim Satterfield and the City of Dover Planning Department. At that time the reconstruction added a 14' center turning lane (which is right in front of my parking lot entrance), 2 - 3' grass buffers, 2 - 5' sidewalks, 2 – 11' travel lanes and 2 – 5' shoulders. Because of the reconstruction we lost 2 valuable parking spaces for my customers as well as team members. I asked the city if it would be possible to pave the rear area of the building for more parking spaces and was told no. During the conversation I was told that parking spaces are determined by the square footage of the business and that currently I cannot add anymore by paving the rear of my building.

This year before starting the fence project I called the City of Dover planning office and spoke with someone that told me that I could come 20' or more off my rear property line if I wanted to for the fencing and include the barbed wire on all four (4) sides or install the fencing and apply for a variance. The problem with locating the fenced area 20' off the rear property line would mean that I would lose an additional 2 parking spaces. Losing more parking would cause my customers and team members more issues and lost revenues.

On a side note; the reconstruction as well as the turning lane in front of our entrance has cost us over $34,000.00 in revenues due to the loss of policyholders since 2009.

Lastly, I looked at the feasibility of having a guard dog within the fenced area and not installing barbed wire. The cost of the dog breed, training, veterinarian expenses, feeding and installing an additional shelter was more costly. Additionally, I and my neighbors were concerned about the dog barking throughout the night and weekends creating more of a disturbance.

Big-city crime seeping into Dover

Jerry Smith , The News Journal Published 3:59 p.m. ET Sept. 7, 2016 | Updated 6:55 p.m. ET Sept. 7, 2016

The Rev. Eric Cooper, pastor of Bible Church of God Delaware, talks with residents on New Street in Dover, which is ground zero for much of the violence in Dover. Jason Minto/The News Journal



The Rev. Eric Cooper, left, pastor of Bible Church of God Delaware, talks with Shavonne Loving on New Street in Dover, which is ground zero for much of the violence in Dover.

The Rev. Eric Cooper was walking along New Street near downtown Dover last week when he witnessed a group of young men selling drugs out in the open.

The pastor at Bible Church of God Delaware said that scene plays out regularly on New Street and the surrounding area he calls "ground zero" of a city that has seen an unprecedented increase in crime.

"The last two, three, four years, heroin has come to Dover and crime has escalated," said Cooper, who believes not as many murders were taking place in the late 1990s because the drug scene wasn't as high stakes as it is today. "There have been more shootings, more burglaries and an increase in other violent crimes since heroin has become the drug of choice in Dover."

City crime statistics back up Cooper's assessment; City Council recently considered buying ShotSpotter, a technology usually reserved for much bigger cities.

Dover was looking at the gunshot detection and location service as a way to combat an increase in gun violence. On Aug. 18, 25-year-old Emmitt Brown was shot in the torso and later died in a Dover hospital, becoming the city's first homicide victim in 2016.

The shooting was the third in the month of August in Dover and the ninth in 2016. In 2015, Dover saw a record seven homicides.

Other crimes have followed suit. A Dover Police Department report recently sent to City Council showed robberies have increased 150 percent (from 14 to 35) in the first six months of 2016 compared with 2015. Assaults have increased 21 percent (from 517 to 625); burglaries, 62 percent (from 37 to 60); and weapons law violations, 73 percent (from 55 to 95).

"There is obvious concern in certain areas as we continue to address crime in the city," said Cpl. Mark Hoffman, the department's public information officer. "While we are pleased with the decrease in some categories (motor vehicle theft and shoplifting), we are seeing increases in assault and burglary cases, as well as a significant increase in robberies. We stand firm in our belief that the majority of these cases can be tied to the illegal drug trade, specifically the rise in heroin use."

The Dover Police Department's 2015 Annual Report shows that heroin use has increased at a high rate in Dover. The Drugs, Vice and Organized Crime Section seized 1,700 grams of heroin in 2015, an 871 percent increase over 2014.

Hoffman said a number of initiatives have been put in place to try to reverse the crime trends. He also believes patrol shifts being at or near full staffing for the first time in several years will show positive results.

He said that community policing and community outreach events, increasing the number of detectives in the Criminal Investigations Unit and Street Crimes Unit, continuing the Police Athletic League and other educational programs, as well as working with other agencies such as Delaware Probation and Parole to expand drug enforcement and violent crime enforcement are steps in the right direction.

"Our downtown surveillance cameras have also been excellent in obtaining evidence in solving crimes," Hoffmann said.

The state has offered funding. In December 2015, the Delaware Legislature's Joint Finance Committee, during a rare out-of-session meeting, awarded $580,000 to address crime. The funding comes from a financial settlement with Bank of America related to a 2008 financial crisis and is part of a broader effort by lawmakers to stem violence in Delaware.

"We are utilizing the money given to us at the request of AG Matt Denn for downtown foot patrols several days a week to combat crime and build community relations," Hoffmann said.

More intervention needed

Cooper and other leaders in the black community believe efforts in community policing have helped some but think those programs don't get to the heart of the matter. Helping those ensconced in a life of crime break out is the answer, according to Cooper.

"When you don't give people a reason to break the habit, it becomes a revolving door," he said. "A lot of young men and women have been in jail so much, that is all they know. We have to stop them from being put in prison and when they come out, give them the resources to keep them out."

Cooper has used a two-pronged approach. One comes from his standing as an ordained minister, while the other comes from his role as a community leader. Both require getting out and coming face-to-face with those who are either currently breaking the law, or those who are most at risk of falling into a life of crime.

"We are at the point in our ministry that the church has to come outside of the walls to change this," Cooper said. "I believe that after a person gives his life over to Jesus, he will find that the community has resources to help him become a productive citizen. We have to get out there and make them see they are somebody. We may not change the world, but if we can help some of them change their lifestyle, then we can definitely make our community better."

Dover City Council member Roy Sudler Jr. agrees, saying the biggest cause of the increase in crime is a lack of recreational programs and activities and stronger support services for families.

"We need to focus on mentor and job-seeking programs that will enrich one's abilities and life skills," he said in an email. "Although I agree with the mayor of Dover's statement that Dover is no Wilmington, I'm concerned that if we do not discover a long-term solution to mitigate criminal activity here, our minimized crime statistics will maximize overnight. I believe that we need to get serious and robust with eradicating criminal enterprises throughout the city of Dover."

Donell Fears, a barber apprentice for Janaid's Salon for Men on West Loockerman Street, had his own idea about why crime is on the rise and what could be done to stop the upward trend.

Fears believes the lack of employment is why so many young kids turn to drugs and crime. He knows when you have financial hardships like many of the young people in the inner city do, most of them have no other recourse.

"I would like to see the city come together with the community to create some type of job and/or after-school program to help those young people in need," said Fears, who has been with Janaid's for five years. "We can talk to them and mentor them all day long, but at the end of the day, what have we given them? False hope."

Sherie Vaughn says she grew up in Dover and has seen crime trends change over time. The 90-year-old owner of Needful Things Consignment Shop on West Loockerman Street says she has been around so long, she is insulated from the drugs and crime just a couple of blocks away.

"It doesn't concern me personally because I know most of the [business owners and residents] around here and they are very protective," she said. "They come in and check on me from time to time, so I feel safe."


Buy Photo

Mary-Beth Johnson, property manager with House of Pride, sits in front of one of the organization's properties on New Street in Dover. (Photo: JASON MINTO/THE NEWS JOURNAL)

That doesn't mean Vaughn is blind to what is going on in the neighborhood around her. She owns the building she is in and others on Loockerman and has had the business more than 25 years. She doesn't necessarily see the crime as being worse, just different.

"As a child, we never locked our doors or our cars," she said. "We've become a city instead of a small town and that changes things."

Vaughn said she has seen the city react to the increased crime in the area and try to keep it in check. One example, she said, is when the city tore down houses on New Street that had become eyesores and known for drug activity and have looked to renovate some of the neighborhoods.

"Instead of drug dealers, they want homeowners," she said. "When people are proud of their community, the worst crime seems to go away. That's what needs to happen in this neighborhood."

Mary-Beth Johnson, property manager for House of Pride, is working in the inner-city to provide help to those individuals who need help getting back on their feet. She says HOP has been rehabilitating homes in the area many call ground zero for crime in Dover and trying to get the community interested.

"We're trying our best, but it's individuals who come down [from Wilmington] to do their business," Johnson said. "More than 95 percent of the people you see here don't live here. It's difficult to get a sense of community."

Crime trending upward in Dover in first six months of 2016

The first six months of 2015 and 2016 are compared. Serious crimes like robbery, weapons law violations, burglary and assault are on the rise. Reports of shoplifting and motor vehicle theft have decreased.

	Crime	2015	2016	Percent increase
1	Robbery	14	35	150%
2	Weapons law violations	55	95	73%
3	Burglary	37	30	62%
4	Assault	517	625	21%
5	Shoplifting	381	343	-10%
6	Motor vehicle theft	37	26	-30%

Source: Dover Police Department report to City Council









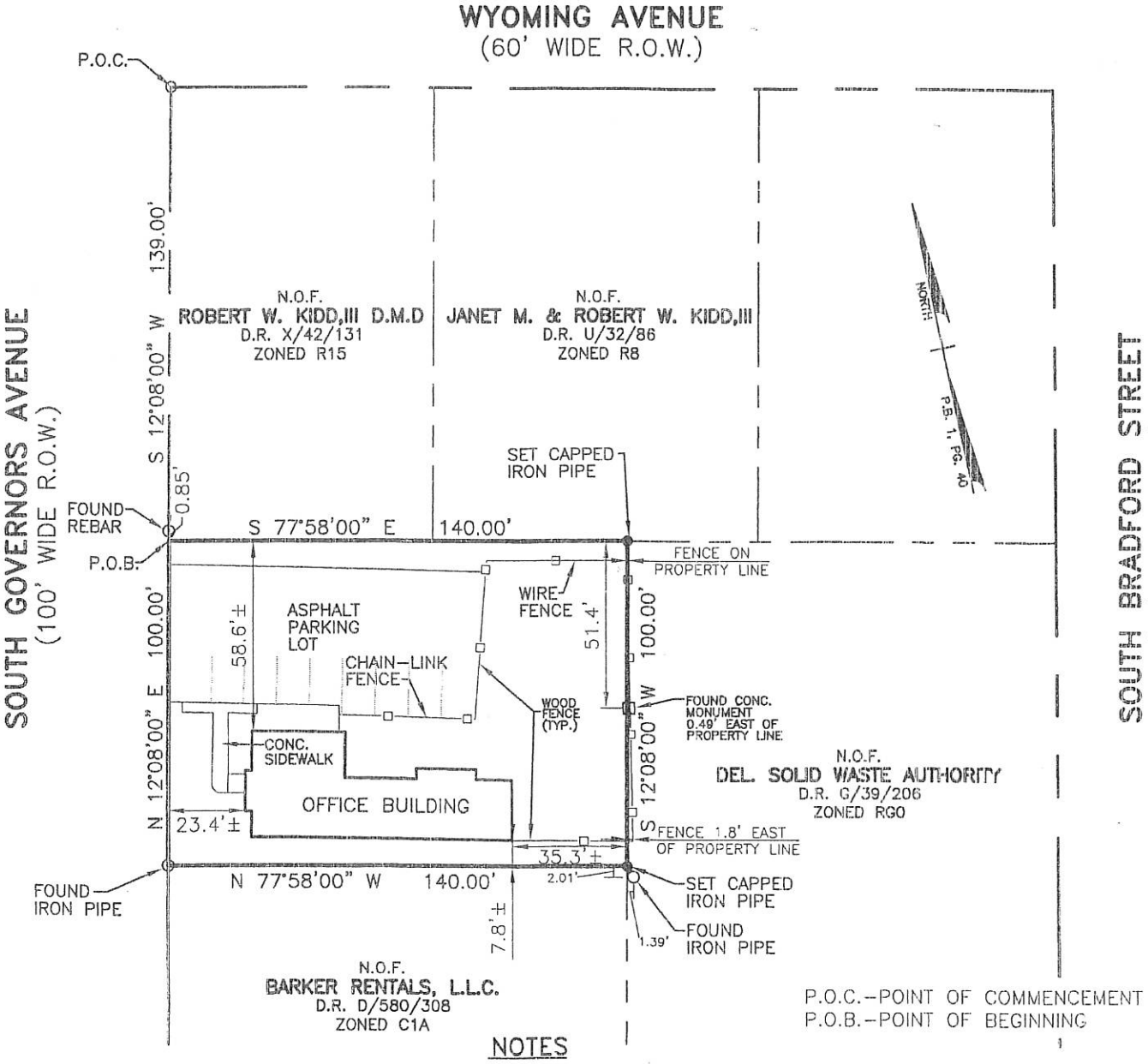
REAL PROPERTY TAX MAP
PREPARED FOR
T COUNTY, DELAWARE
BY
L. ROBERT KIMMEL ESENSBURG P.A.

STATE LINE
COUNTY LINE
HUNDRED LINE
CORPORATE LINE
SCHOOL DIST. LINE

PROPERTY LINE
ORIGINAL LOT LINE
CONTINUING OWNERSHIP
ROADS
RAILROAD

PARCEL NO. 03
BLOCK NO. 04
SUBDIVISION BLOCK 1 OR 2
SUBDIVISION LOT NO. (10)
CHURCH 6 CEMETERY 17

11



NOTES

1. TAX MAP PARCEL NO. ED-05-077.17-07-04.00-000
2. ZONING: C1A (FRONT YARD: 25'; MIN. SIDE YARD: 15' or 25' ADJOINING RESIDENTIAL; REAR YARD: 15')
3. SELLER: BRUCE W. CLIFFORD (DEED REFERENCE O-53-170, P.B.1, PG.40)
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10. NO TITLE EXAMINATION FURNISHED TO OR PERFORMED BY THE PREPARERS HEREOF.

PARCEL SURVEY PLAN
OF
SOUTH DOVER ACRES, LOT NOS. 23 & 24
1011 SOUTH GOVERNORS AVENUE
DOVER, DE

18'3"
SHED
11'
3'
GARAGE
18'2"
1'6"
15'9"
ADDITION
23'
12'9"
ORIGINAL
STRUCTURE
35'
28'6"
PARKING LOT
19'2"
12'8"
2'
9'8"
SOUTH CONSTANCE AVENUE

CITY OF DOVER
PLANNING & INSPECTIONS
15 LOOCKERMAN PLZ
DOVER DE 19901

Application Number . . . . . 17-00000148 Date 2/15/17
Property Address . . . . . 1011 S GOVERNORS AVE
Tax Map Number: ED-05-077.17-07-040.000-000
DRS from Location Master:
Tenant nbr, name . . . . . STATE FARM
Application type description FENCE
Application valuation 5800

Application desc
170 LF OF 6' CHAIN LINK

Owner	Contractor
DELADVITCH REAL EST INVEST LLC	FORREST FENCE CO
C/O STATE FARM	PO BOX 21
1011 S GOVERNORS AVE	FELTON DE 19943
DOVER DE 19904	(302) 284-9674

Permit . . . . . FENCE PERMIT
Additional desc . .
Permit Fee 65.00
Issue Date . . . . 2/15/17 Valuation 5800
Expiration Date . . 8/14/17

Qty	Unit Charge	Per		Extension
			BASE FEE	25.00
5.00	8.0000	THOU	COST $1001 UP TO 10 MILLION	40.00

Special Notes and Comments
February 10, 2017 9:27:48 AM knm.
Permit is for the installation of a six (6) foot tall chain link fence with barbed wire approx. 170 L.F. in the rear yard behind the parking lot at 1011 S Governors Avenue. The fence may be located on the property line; however, it shall not cross the property line. The fence may have barbed wire along 3 sides of the fence excluding the back side along the residential zone. Please call 302-736-7010 to schedule a final inspection once the fence has been installed.
February 10, 2017 9:31:33 AM knm.
February 10, 2017 10:33:07 AM jal.

Structure shall not be installed within an existing drainage / utility easement. If an easement does not exist, the

---

CALL(302)736-7010, (302)736-7011 or
(302)736-4457 for scheduling inspections

Forrest Fence, Inc.
PO Box 21
Felton, DE 19943
302-284-9674 Office Fax302-284-7339
www.Forrestfencing.com

Proposal/Contract: 17-00043

Print Date:01/24/17 JOHN
Proposal Date:01/23/17
Salesperson:JOHN

STATE FARM- TOM DELADVITCH(Cust.No:N1347)
1011 S. GOVERNORS AVE.
DOVER,DE 19904 / 302-233-5941

Qty	Item Description	Price
	Dear - TOM DELADVITCH- STATE FARM We are pleased to quote on your fencing requirements. We propose to supply and install the following: 170 linear ft. of standard 6' chainlink fence. Materials as follows: Fabric: 2" 8 gauge 6' galvanized mesh. Post: 2 1/2" x 8' schedule 20 Top Rail: 1-5/8" x 21' schedule 20 85' white privacy slats (on 2 line runs). Entire fence wrapped in barb wire. 4 linear ft. of standard 4' chainlink fence. Materials as follows: Fabric:8 gauge 4' GREEN mesh. Post:1 5/8" x 6' 055. Top Rail: 1 3/8" Gates: 1-each 4' walk gate. Cut existing chain link and replace with 4' gate KENT COUNTY PERMIT INCLUDED: PROPOSAL PRICE IS GOOD FOR CASH OR CHECK PAYMENT. PLEASE ADD 2.5% IF USING CREDIT/DEBIT CARD. PLEASE ADD 4.5% IF FINANCING THROUGH WELLS FARGO. Thank you for your interest in our products and services.	$5,800.00

--

Item Total:	$5,800.00
Total:	$5,800.00

Forrest Fence, Inc.
PO Box 21
Felton, DE 19943
302-284-9674 Office Fax302-284-7339
www.Forrestfencing.com

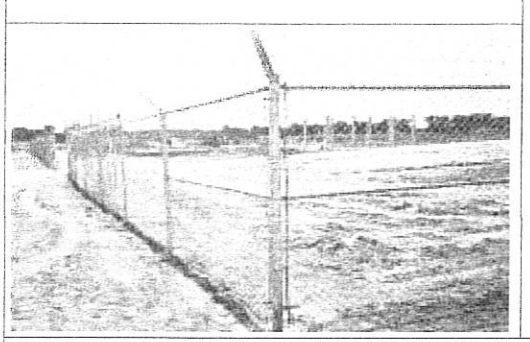
Proposal/Contract: 17-00043

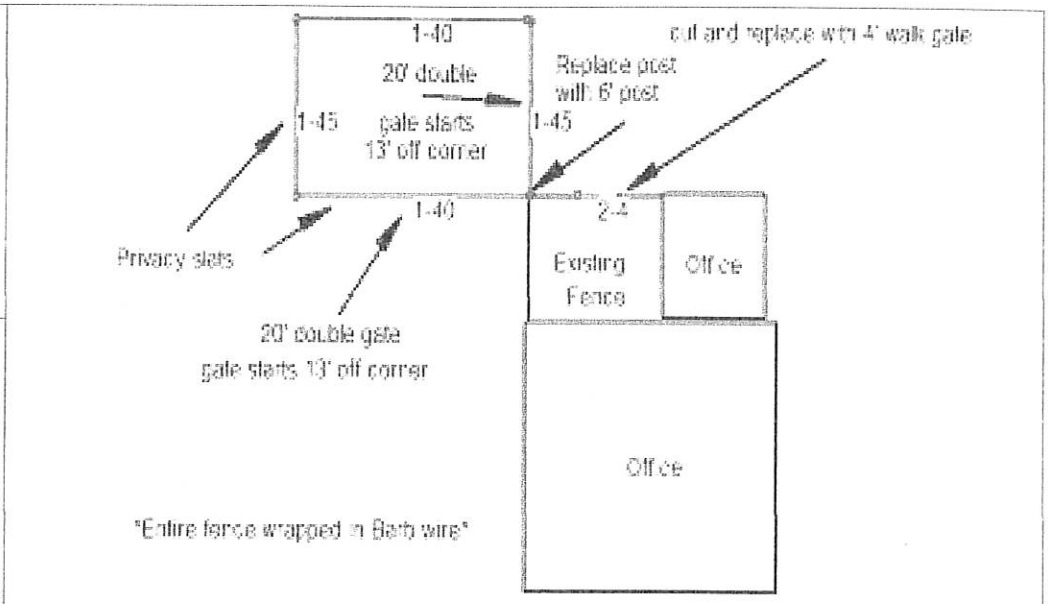
Print Date:01/24/17 JOHN
Proposal Date:01/23/17
Salesperson:JOHN

STATE FARM- TOM DELADVITCH(Cust.No:N1347)
1011 S. GOVERNORS AVE.
DOVER,DE 19904 / 302-233-5941

Legend:
1. blue: Chain link Standard (6 ft.) C-266G
2. red: Chain link Standard (4 ft.) C-294G

Notes:





Terms of contract. Deposit at contract acceptance is 50%. Remaining balance (50%) is due upon job completion.

1) Special "Conditions" must be included in this contract. Warranties are as followed: All fence installations come with a five year workmanship warranty from date of install. All manufacture warranties are upon their discretic
2) Customer is responsible for adhering to all applicable governmental rules and regulations. Customer must determine location of all fence lines. Forrest Fence, Inc. cannot be held liable for incorrect line location. Customer is responsible for clearing of fence lines prior to installation.
3) Customer must specify if the fence is to follow the ground contour or to be level on top. Forrest Fence, Inc. cannot be held responsible for any filling, leveling or landscaping of customer's property.
4) This contract does not include removal or disposal of existing fence or debris unless specifically stated. Forrest Fence, Inc. assumes no responsibility for damage to vegetation, underground wires, pipes, sprinklers.
5) Forrest Fence, Inc. is not responsible for wind and weather damage, acts of God, or other causes beyond Forrest Fence, Inc's control.
6) Where it is necessary to break concrete or asphalt, customer grants Forrest Fence, Inc. permission to do so and waives all claims for cracks and damages, which may occur.
7) All wood fencing and chainlink is sold "as is". It is available for inspection prior to installation. Cracking, warping or discoloration are all inherent characteristics of wood for which Forrest Fence, Inc. holds no responsibility.
8) All materials remain property of Forrest Fence, Inc. until this contract is paid for in full.
9) If this contract is cancelled by the customer, Forrest Fence, Inc. will refund all payments made by customer (minus 25% the down payment). Refunds will be made within 30 days of cancellation.
10) Forrest Fence, Inc. is not responsible for the removal of any excess dirt. All dirt will be raked out or left in piles.
11) An interest rate of 2.5% per month (30% annually) will be charged on all past due accounts.

Accepted:
SALESPERSON:_____ date:_____ CUSTOMER:_____ date:_____

SAMPLE NAME

123 MAIN STREET

Dover, Delaware 19904

Dear Mr. SAMPLE NAME,

I am asking for your support as I write to the City of Dover, Department of Planning and Inspections for a fence variance for my property located at the State Farm Agency, 1011 South Governors Ave.

Current zoning rules say that the use of *"barbed wire"* is prohibited along property lines which adjoin residential zones (please see the attached article and section below). This regulation only applies to the rear portion of my fence which adjoins the Delaware Solid Waste Authority Administration Offices located at 1128 South Bradford Street (as you will see from the attached photos).

- **ARTICLE 5. - SUPPLEMENTARY REGULATIONS**

Section 7. - Supplementary regulations applying to all non-residential zones.

- 7.5

Fences. Fences or walls shall be limited to a maximum height of four feet above the ground when situated within front yard areas, and shall be limited to a maximum height of eight feet above the ground when situated within side and rear yard areas. Fences situated on corner lots shall be subject to the provisions of article 5, section 1.3. For the purposes of this provision, on lots with dual street frontage that are not corner lots, a fence situated to the rear of the principal structure shall be limited to a maximum height of eight feet above ground. Fences or walls with a height in excess of eight feet above the ground shall conform to the setback requirements for dwelling buildings as set forth in article 4 of this Appendix. Fence material commonly referred to as "*barbed* wire" and/or "razor wire," or any similar material shall be prohibited along property lines which adjoin residential zones.

(Ord. of 3-24-1986; Ord. of 12-14-1992; Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 5-22-2000; Ord. No. 2011-26, 12-12-2011)

The reason I am asking for this fence variance is because in the past five years we have had several items stolen including but not limited to Christmas lights/trees/ornaments, bbq gas grill, picnic table, outside chairs and potted plants. Additionally, we have found jeans and belt, cigarette butts, food and used condoms. To date we have installed outside lighting and closed circuit cameras (see attached photos) and installed an alarm system in the building. I do leave my personal trailer on the premises when I am not using it and if my team members or I have to travel for business we leave our personal vehicle at the agency overnight.

Prior to requesting the fence variance I inquired about keeping a guard dog (Doberman, German Sheppard or Rottweiler) in the fenced area. Although it was an alternative I was concerned about the dog barking at night disturbing my neighbors. In addition to the possibility of excessive noise the cost to feed, veterinarian expenses, an additional outside structure to keep the dog out of the weather was more costly.

Currently the barbed wire is allowed on the front and both sides of our installed fence. I am requesting the fence variance for the last 25% (40 feet) of the barbed wire along the back side of the yard along the Delaware Solid Waste Authority Administration Offices (see attached photos). I feel by doing this it will help to prevent more theft of our property but also and more importantly provide a secured spot for my team member's personal vehicles while traveling.

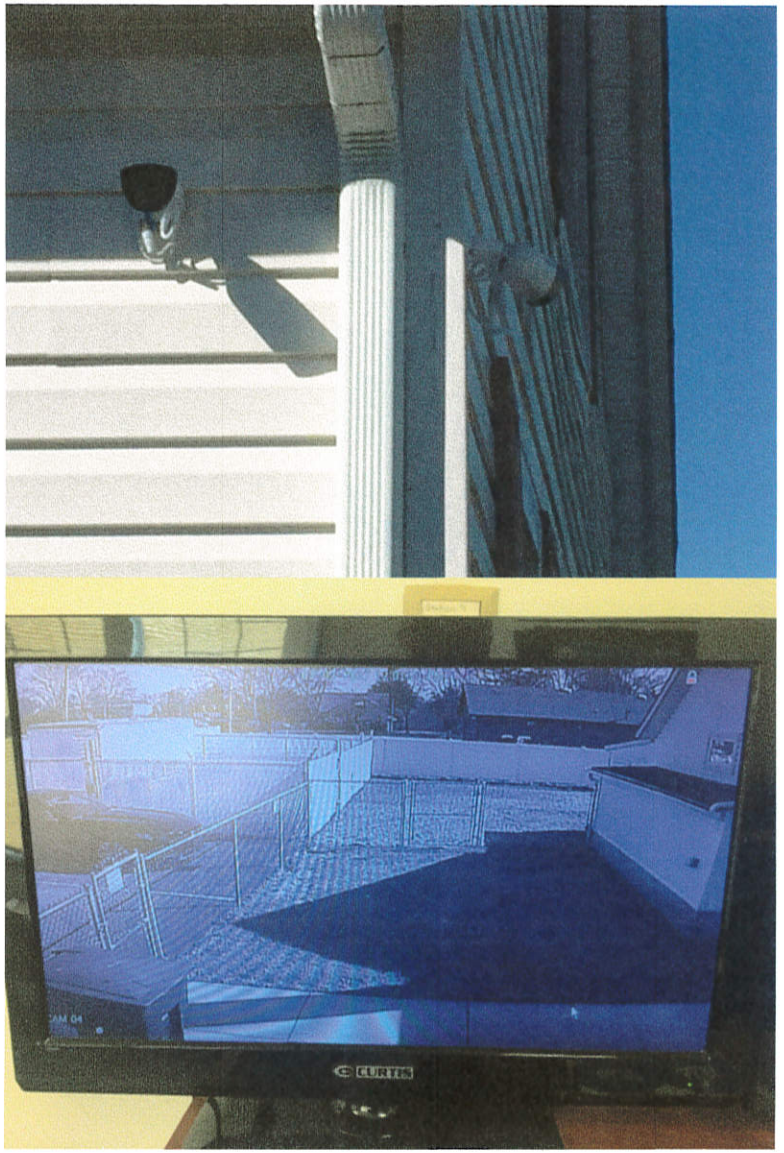
To make the parking area more aesthetically pleasing for my neighbors and to maintain the downtown improvement projects I have had privacy slats installed (see attached photos). By doing so I feel it creates a more uniform appearance with our surrounding properties.

I hope you agree and will support my request by signing below to show your support for this variance. I believe we all need to be vigilant in our efforts of making our neighborhood safe as well as creating an aesthetically pleasing business and residential community. Should you have any questions or concerns, please do not hesitate to contact me at 302-736-9859 (agency) or 302-233-5941 (cell). Thank you for your thoughtful consideration of this request.

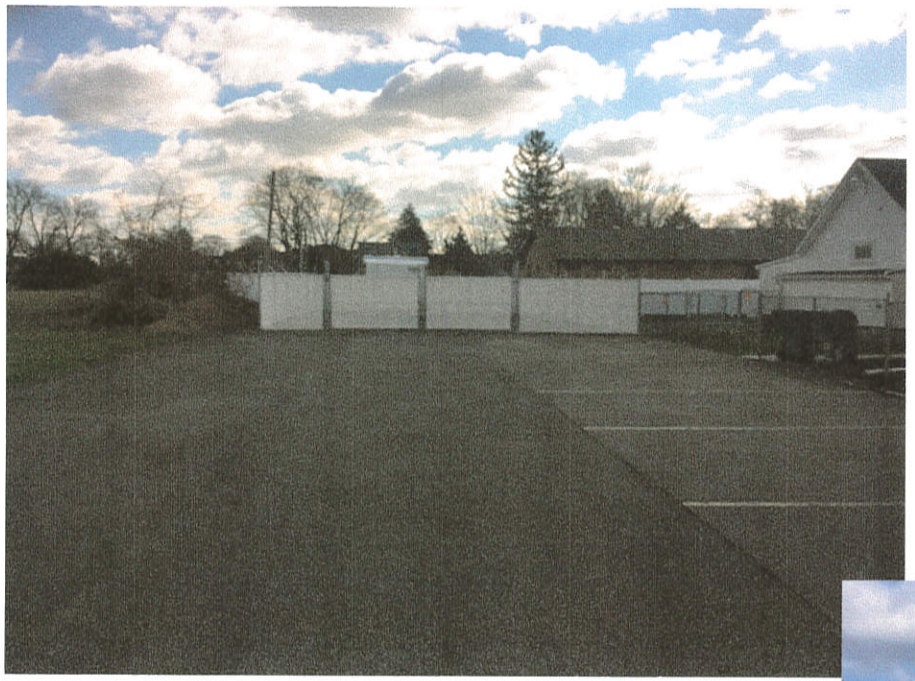
Respectfully yours,

Tom Deladvitch


03-02-2017 12:00:44 PM
CURTIS


CURTIS

Haulmark





I support of the fence variance:

I Joel Halpern whose address is located at 117 Wyoming Ave would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: 3/1/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I CIRIACO BONGALOS, JR., MD whose address is located at 1025 & 1027 S. GOV. AVE. DOVER DE 19904 would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: C Bongalos Jr. Date: 3-8-2017

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed:_____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Carmen Fasciolo Jr. whose address is located at 1019 S. Governor's Ave would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: 3/7/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Joel Halpern whose address is located at 983 Governors Ave / 141 Wyoming Ave would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: 3/7/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Shirley & Walter Wharton whose address is located at 1022/1024 S. Gov. Ave. would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: Shirley C. Wharton Date: 3-6-17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed:_____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Janet Kidd whose address is located at 110, 130, 132 Wyoming Ave would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: Janet M Kidd Date: 3/9/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed:_____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Delaware Solid Waste Authority whose address is located at 1128 S Bradford St Dover DE would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: 3/9/17

Michael Parkowski

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I CHARLES BARKER (PIVOT PT) whose address is located at 1015 S. GOVERNORS AVE, DOVER 19904 would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: 3/6/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: _____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Annette VanSteffen whose address is located at 1008 South Governors Ave, Dover DE would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: Annette VanSteffen Date: 3/6/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed:_____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Kline M Kemp Jr whose address is located at 1012 So. Governors Ave. Dover would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: Kline M. Kemp Jr Date: 3/6/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed:_____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

I support of the fence variance:

I Samuel Onwu whose address is located at 1018 S. Governors Avenue would like to express my support of Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have no objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed: Samuel Onwu Date: 3/7/17

I do not support of the fence variance:

I _____ whose address is located at _____ would like to express I do not support Tom Deladvitch/Deladvitch Real Estate Investment, LLC and their request for the fence variance at 1011 S. Governors Ave and I attest that I have an objection to the barbed wire located on the rear portion of the existing fence as documented.

Signed:_____ Date: _____

**** PLEASE RETURN SUBMISSISION IN THE ENCLOSED SELF ADDRESED STAMPED ENVELOPE ****

APPLICATION FOR MAILING LIST

Application is hereby made to the City of Dover's Department of Planning and Inspections for preparation of a listing of the names and mailing addresses of all property owners within the specified feet of the Subject Site indicated below, and further described on the attached Plan, as they appear on the municipal tax roll.

SUBJECT SITE: 1011 S. Governors Ave
(Address) Dover, Delaware 19904
(Tax Parcel Number) 2-05-07717-07-0400-00001

OWNER OF RECORD: Deladvitch Real Estate Investment Trust
(Name & Address) 1011 S. Governors Ave
Dover, Delaware 19904

This application is made in conjunction with my application for the following on the subject property (Check appropriate item):

X BOARD OF ADJUSTMENT (200 ft.)
____ ANNEXATION (200 ft.)
____ OTHER- **A fee of $15.00 will be assessed for the creation and distribution of a mailing list, based on the City of Dover's Data Distribution Policy.**
Specify distance_____

Please forward the requested mailing list to the following:

X Department of Planning & Inspections Staff _____
_____ City Clerks Office
_____ Other: Send to address below

_____
_____
_____
_____
_____

APPLICANT'S CERTIFICATION

My signature hereon indicates my acknowledgement and understanding of the public notice that will be sent with regards to my application/inquiry.

Applicant's Signature: _____

Date: 3-13-2017

For Office Use Only
Date Prepared:_____ Paid:_____
Preparer's Initials:_____ File Number_____
Date Sent:_____
Sender's Initials:_____

Dover Planning Form Created 3/7/06

PROJECT CONTACT LIST

Please print or type the names of individuals who wish to receive correspondence related to the project (D.A.C.) Reports, Meeting Agendas, Decision Notices, etc.

Be sure to include the **name of a contact person** for **ALL** engineering firms, corporations, realtors, etc.

APPLICANT/ OWNER	NAME	ADDRESS	TELEPHONE/FAX E-MAIL
	THOMAS Deladvitch	1011 S. Governors Ave Dover, DE 19904	302-736-9859 302-233-5941 Tdeladvitch@gmail.com tom.deladvitch.hcc@statefarm.com
EQUITABLE OWNER			
PROFESSIONAL ENGINEER/ ARCHITECT SURVEYOR			
OTHERS			

StateFarm

Tom Deladvitch LUTCF, Agent

1011 S Governors Ave
Dover, DE 19904-6901
Bus 302-736-9859 Fax 302-736-1977
tom.deladvitch.qhcc@statefarm.com
www.tomdeladvitch.com



The greatest compliment you can give is a referral.

City of Dover

Board of Adjustment

April 19, 2017

V-17-11

Location:	53 Roosevelt Avenue
Applicant:	James Medved (Kent Pediatrics)
Owner:	JCD Investments LLC
Tax Parcel:	ED-05-077.17-05-73.00-000
Application Date:	March 17, 2017
Present Zoning:	C-4 (Highway Commercial Zone)
Present Use:	Vacant
Proposed Use:	Medical Office Building
Reviewed By:	Eddie Diaz, Planner I
Variance Type:	Area Variance
Variance Requested:	To allow a decrease in the minimum required rear setback from 30 feet to 20 feet.

Project Description

The applicant proposes to build a 2,520 S.F. medical office building. The requested variance is from the *Zoning Ordinance* requirements of Article 4, §4.15 as they relate to the minimum rear setback for a building in the C-4 (Highway Commercial) Zone. In the C-4 Zone, when a property is adjacent to a residential zone at the rear the minimum rear setback is thirty (30) feet. The applicant is requesting that this minimum setback be reduced to (20) feet.

The property received a prior variance (V-17-05) from the Board of Adjustment on February 15, 2017 to increase the maximum number of parking spaces on the site from eleven (11) to fourteen (14) spaces. However, the applicant did not request the current variance at that meeting because at the time a different (conforming) site layout was contemplated.

Adjacent Land Uses

The property is zoned C-4 and is located on Roosevelt Avenue just west of the intersection with South DuPont Highway. Other nearby streets include South State Street, which intersects Roosevelt Avenue a block to the west of the property, and Orchard Avenue, which is in the Morris Estates neighborhood to the north and has properties which back up onto the subject property.

The area is a mix of residential, office, and retail/commercial uses. The properties to the west and north of the subject property on Roosevelt Avenue and Orchard Avenue are one-family residences zoned R-8 (One-Family Residence Zone). To the immediate west is the Cuts-R-Us hair salon, zoned C-1 (Neighborhood Commercial Zone). To the immediate east is the H&A Electric Company, zoned C-4. To the northwest is L&D Cycles, an ATV vendor zoned C-4, which adjoins the applicant's property along a portion of the rear lot line. Across the street to the south is a medical office building zoned C-4, which is the current location of Kent Pediatrics and other businesses. To the east and south are other commercial properties zoned C-4 and characteristic of South DuPont Highway. A Zoning Map Exhibit (Exhibit A) prepared by staff is found in the attachments to this report.

Code Citations

The use as a medical office is considered a professional office and is permitted in the C-4 zone as outlined in *Zoning Ordinance* Article 3 §16.1(b).

Zoning Ordinance Article 4 §4.15 lists the bulk and area standards for lots in the C-4 zone. Table 1 on the next page summarizes the requirements for the C-4 zone and compares them to the applicant's proposed project. The standard requiring a variance is highlighted.

Table 1: Zoning Requirements and Requested Bulk Standards
V-17-11 Lands of JCD Investments LLC at 53 Roosevelt Avenue

	C-4 (Highway Commercial Zone)	Applicant's project
Standard:	***Minimum required:***	***Proposed:***
Lot area (sq. ft.)	--	15,350 S.F.
Lot width (ft.)	150	100 (legal nonconforming)
Lot depth (ft.)	150	153.5
Front yard (ft.)	20	91.5
Side yard (ft.)	15	25 west side yard, 15 east side yard
Rear yard (ft.)	10 or equal to bldg. height	Not applicable
Side or **rear** yard which adjoins a residence zone (ft.)	30	20
Off-street parking spaces:		
Per 300 SF floor area or	1	14 total (prior variance V-17-05 granted)
Per employee	1	
	Maximum Permitted:	
Building height		
Stories	6	1
Feet	75	<30
Floor area ratio	4.0	0.16

Applicant's Proposed Project
Between February and April 2017, the applicant conducted a complete redesign of the proposed project's site layout. Previously, the building was to be located towards the southeast corner of the site, minimizing its front and east side setbacks but ultimately complying with all required setbacks. The building was oriented so its short edge faced the street. The design featured a driveway on the west side of the site which wrapped around the building to a parking area and dumpster pad in the rear. This prior design, dated September 21, 2016, can be found in Exhibit F1.

In the current design, the building is flipped so its long edge faces the street, and it has been relocated towards the north end of the site ten (10) feet past the minimum rear setback. The parking lot and dumpster pad have been relocated to be in front of the building. The currently proposed design, dated March 16, 2017, can be found in Exhibit E. The applicants also provided a variation on the current design that would keep the building within the required setbacks by moving both the parking and the building toward the front of the lot. This design, received by the Planning Office on March 13, 3017 (not noted on the plan) can be found in Exhibit F2.

In discussion with Staff, the applicants gave a number of reasons for the site redesign, including a desire to have parking that would be less disruptive to neighbors, particularly

those at the rear; direct conversations with neighbors who said they would prefer parking in front; and a decrease in impervious surface on the site that would make stormwater management easier.

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[1]:
   "The parcel of land, tax parcel # ED-05-077.17-05-73.00-000 is located in the C4 commercial zoning district approximately 50 feet from the intersection of U.S. Route 13. The property is surrounded by the C4 - Commercial Zone to the east and west and the R-8 Residential Zone boundary adjoins the property along the rear (north). The property consists of a vacant wooded lot that is 100 feet wide by 153.50 feet deep or 15,350 sf (0.352 acres). A single family home with a bituminous driveway existed on the property until the summer of 2007; at that time dwelling was demolished and the property has remained vacant."

[1] The applicant did not provide separate responses to the four criteria. The applicant responses provided in this report are drawn from the applicant's full project narrative (Exhibit B).

Staff Response:
The C-4 Highway Commercial zone permits business, professional or governmental offices, personal service establishments, hospitals and medical centers, and drive-throughs among other uses. Certain conditional uses are permitted as well, including crematories and multi-family dwellings. The prior one-family dwelling at this location was a non-conforming use.

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

Applicant Response:
"A hair salon (Cuts-R-Us) which operates in a 26' wide by 40' deep (1040 sf) one story building is located on the property immediately to the west of the site. The parking area behind the hair salon is large enough to park 10 or more automobiles. H and A Electric Company operates from several buildings with a 15 space automobile parking lot on the adjoining property east of the subject site. Single story brick ranch style homes are located on Orchard Avenue and contain rear yards that abut the subject property to the north. A large pole barn structure is located in one of the rear yards directly adjacent to the site. South of the subject site on the opposite side of Roosevelt Avenue is a large medical office building (7800 sf+/-). A solid wood stockade fence located on the adjoining residential property to the north is constructed along the rear property line common with the subject site. The remaining sections of the immediate neighborhood to the west of the hair salon contain residential dwellings on the north side of Roosevelt Avenue. The entire area on the south side of Roosevelt Avenue consists of large commercial and office buildings and uses."

Staff Response:
The property is located in a transitional area between large commercial uses on South DuPont Highway and residential areas to the west and north. Because the area is transitional, businesses in the area are not consistent in terms of building and parking placement. All of the buildings nearby on Roosevelt Avenue are close to the road, but the large commercial buildings on the south side do not face the road, instead facing their own parking lots. H&A and Cuts-R-Us immediately adjacent to the property have parking at the rear of their buildings, making their parking largely invisible from the road, but the businesses across the street from the property have parking that is easily visible. If the applicant's project were constructed as proposed, with parking in the front and the building at the rear, it would not have a site layout in itself unusual for the zone or parts of the area. However, it would have an unusually large front yard setback and an unusually small rear yard setback, especially compared to its most immediate residential and commercial neighbors on the north side of Roosevelt Avenue.

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

Applicant Response:
"The granting of a variance to permit the reduction in the rear yard setback would, in no way, negatively affect the adjoining and neighboring properties for the following reasons:

1. The proposed medical office use is similar in nature and intensity of use to the other commercial uses surrounding the project site.

2. The immediate surrounding uses (hair salon, electric supply, medical offices) generate similar traffic trips and traffic circulation patterns to the proposed use. Therefore, no increase in traffic volume or trip frequency above what is normally experienced on Roosevelt Avenue is expected.

3. A large 25 feet by 40 feet garage structure is constructed less than 10 feet from side and rear property lines on the adjoining property to the east (H & A Electric site).

4. A large 20 feet +/- by 25 feet +/- garage structure is constructed in the rear yard of the residential property directly behind the subject site to the north. The structure appears to be approximately 11 feet from the property line.

5. The residential properties to the north, east and west of the site will be properly screened in accordance with the municipal code to eliminate visual impacts, headlight glare and noise from the small parking lot. As stated earlier, the location of parking facilities in the front of the proposed building eliminates the potential for negative impacts to the residential uses.

6. The site directly across Roosevelt Avenue to the south consist of a commercial office building with a parking lot that is located in the front yard of the property that contains frontage along Roosevelt Avenue. Directly adjoining this commercial property, a second office complex exists with a parking lot that also exists within the front yard area of Roosevelt Avenue. At the intersection of Roosevelt Avenue and South State Street, a Walgreens Pharmacy occupies the southeast corner and a Funeral Home occupies the northeast corner. Both of these commercial properties contain parking facilities within the front yard area on Roosevelt Avenue. Clearly, the proposed concept is consistent with parking arrangements in close proximity to the site as well as beyond the limits of the site along the Roosevelt Avenue corridor. Because of the surrounding commercial uses and site layouts, the proposed concept would not change the character of the neighborhood or the intent of the zone.

7. The hours of operation for the medical office will be 8:30 am to 5:00 pm, Monday thru Friday. Therefore, the operation of the facility is not expected to negatively impact the adjoining residential uses to the northeast or west in the evening hours or on weekends."

Staff Response:
Staff concurs with the above responses, in which the applicant speaks generally about why the proposed use and layout of the site would not negatively impact neighboring uses. With regard to the rear setback specifically, it does not appear the immediate neighbors adjoining to the north would be negatively affected by the applicant's building having a 20-foot setback instead of a 30-foot setback. Of these three properties, one has a large garage between the applicant's property and the house, one meets the applicant's property at only a point, and one is a commercial property in the C-4 zone (L&D Cycles) which itself has a nonconforming rear setback of 23 feet. All three of these properties would be screened by the stockade fence shown along the property line, which is to be implemented per the City's opaque barrier requirements. Finally, it would certainly be less disruptive to these neighbors if the property had a 20-foot-wide landscaped rear yard instead of a parking lot at the rear, which may come within only a few feet of the property line and fence. For these reasons Staff believes the impact on neighboring properties caused by the reduced setback would be minimal.

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 requested variance is not granted by the Board of Adjustment, the applicant will not be able to develop the site in a way that minimizes the negative impact to adjoining residential uses to the north. The front yard location of parking and stormwater management facilities is the best possible scenario for developing the permitted use.

Also, it is the intent of the Federal Stormwater Regulations to treat stormwater runoff from the development of impervious surfaces utilizing non-structural Best Management Practices. The State of Delaware enforces the federal regulations through the local County Soil Conservation District. By allowing the construction of the building to take place towards the rear of the site and situating the parking facilities in the front of the property, the revised layout allows for the reduction of over 1500 square feet of proposed impervious coverage. This logic is consistent with the intent of the stormwater regulations by limiting the amount of impervious coverage generated. If the Board of Adjustment did not grant the requested variance, the applicant would not be fulfilling the intent of the stormwater best management practices and over 1500 square feet of additional impervious surface would have to be treated. The result would be a greater volume of water to be stored and infiltrated which in turn creates more stormwater basin area on the site.

By situating the proposed building in the rear of the site and requesting the rear yard variance, additional stormwater best management practices are able to be fulfilled since green space is able to be created in front of the proposed parking lot

along Roosevelt Avenue. This green space is proposed to be utilized as an area to properly infiltrate stormwater runoff from the impervious surface of the parking lot to satisfy the water quality aspects of the stormwater regulations. If the Board of Adjustment did not grant the requested variance, the applicant would not be fulfilling the intent of the stormwater best management practices.

The revised layout will insure that surface stormwater runoff generated by the parking area is directed completely away from the proposed building structure and any over flow from significant rainstorms will be immediately directed to Roosevelt Avenue where it can be properly intercepted and controlled by the roadway. The previous design concept directed runoff generated by the parking lot to flow around the building foundation which is an undesirable condition.

Finally, by placing the building structure in the rear of the site, all of the activity that will create impact such as noise and light will be situated along Roosevelt Avenue where surrounding commercial uses and parking facilities already exist. Since the properties located behind the subject site contain residential homes, the proposed building will screen the residential properties from any impacts generated from the use of the parking area. The commercial uses to the east and west of the property should not be impacted by the parking proposed in the front yard area since parking activities are directly related to the commercial uses that exist on both sides of the site. If the Board of Adjustment did not grant the requested variance, the buffer separation created by the building between the residential uses and the proposed commercial use would not be able to be created."

Staff Response:
The applicant has a high bar to clear in demonstrating exceptional practical difficulty for this case because the Board and Staff have already seen a prior design for the site showing the building with conforming setbacks. There is even an alternate version of the current design which would not require the requested variance (see Exhibit F for both of these designs). Nevertheless, the applicant may demonstrate that using these alternate designs would be technically infeasible, necessitating use of the design coming before the Board.

The September 21, 2016 plan (Exhibit F1) shows a stormwater management area within the east side and front yard setbacks. As the applicant states above, using this design would require water to flow around the building, which may cause problems for the building foundation. In addition, this design has over 1,500 S.F. of additional impervious surface which must be treated. The stormwater management area drawn in this early concept may simply not be large enough to hold all the runoff from the site. Because the Kent Conservation District requires stormwater to be detained on site, requiring the applicant to use a design that generates more runoff than can be handled could be considered an exceptional practical difficulty.

The March 13, 2017 plan (Exhibit F2) fulfills all the intentions of the applicant's redesign while not requiring a rear yard variance. It even has slightly less

impervious coverage than the proposed design, due to a shorter driveway. However, this design presents its own set of stormwater problems. As the drawing shows, only a small area between the parking lot and the street can be used for stormwater infiltration. The rest would have to be infiltrated behind the building, which would be technically difficult due to the slope of the site downhill toward the street. Detention in the rear yard may also cause problems for neighbors. For these reasons requiring the applicant to use this alternate design could also present an exceptional practical difficulty.

The design with a 20-foot rear yard setback proposed to the Board of Adjustment would lessen the difficulties posed by the alternate designs, by maximizing the amount of green space that can be used for infiltration between the parking lot and the street while still maintaining a reasonable setback from neighbors at the rear.

The considerations detailed above about appropriate locations for green space and infiltration may not apply if a different kind of stormwater management system, one not reliant on infiltration, can be found for the site, such as an underground system. The applicant should speak as to why alternative stormwater management systems are not feasible.

Variance Recommendation
Staff recommends approval of the variance for a 20-foot rear yard setback at 53 Roosevelt Avenue for reasons as follows:

- The proposed site layout minimizes the negative effects on neighboring properties that would come from a new commercial use, by placing the parking along the street frontage instead of behind the building.
- A ten-foot reduction in the rear yard setback is not likely to have a significant effect on the three properties adjoining the property at the rear, especially because the opaque barrier consisting of fence and landscaping required by the *Zoning Ordinance* will lessen the effects of the commercial property regardless of whether the parking or building is in the rear.
- The design allows stormwater to be infiltrated in a practical way not shared by the two alternate designs, fulfilling the intent of state stormwater regulations enforced by the Kent Conservation District. Further information may be needed about why non-infiltration based stormwater systems cannot be used.

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 through the Planning Commission, and appropriate permits from the City of Dover Department of Planning & Inspections and other agencies.

- A variance is not required for this project for minimum lot width. The lot width of 100 feet is considered a legal nonconformity, and the minimum lot width standards are only applied when creating new lots, not developing existing ones.
- A variance is not required for this project for the west side yard setback. The property to the immediate west was previously zoned R-8, and if this was still the case a variance for side yard setback would be required, as the minimum setback would be 30 feet. However, this neighboring property was rezoned to C-1 in November 2016 reducing the minimum width for this setback to 15 feet.

GUIDE TO ATTACHMENTS

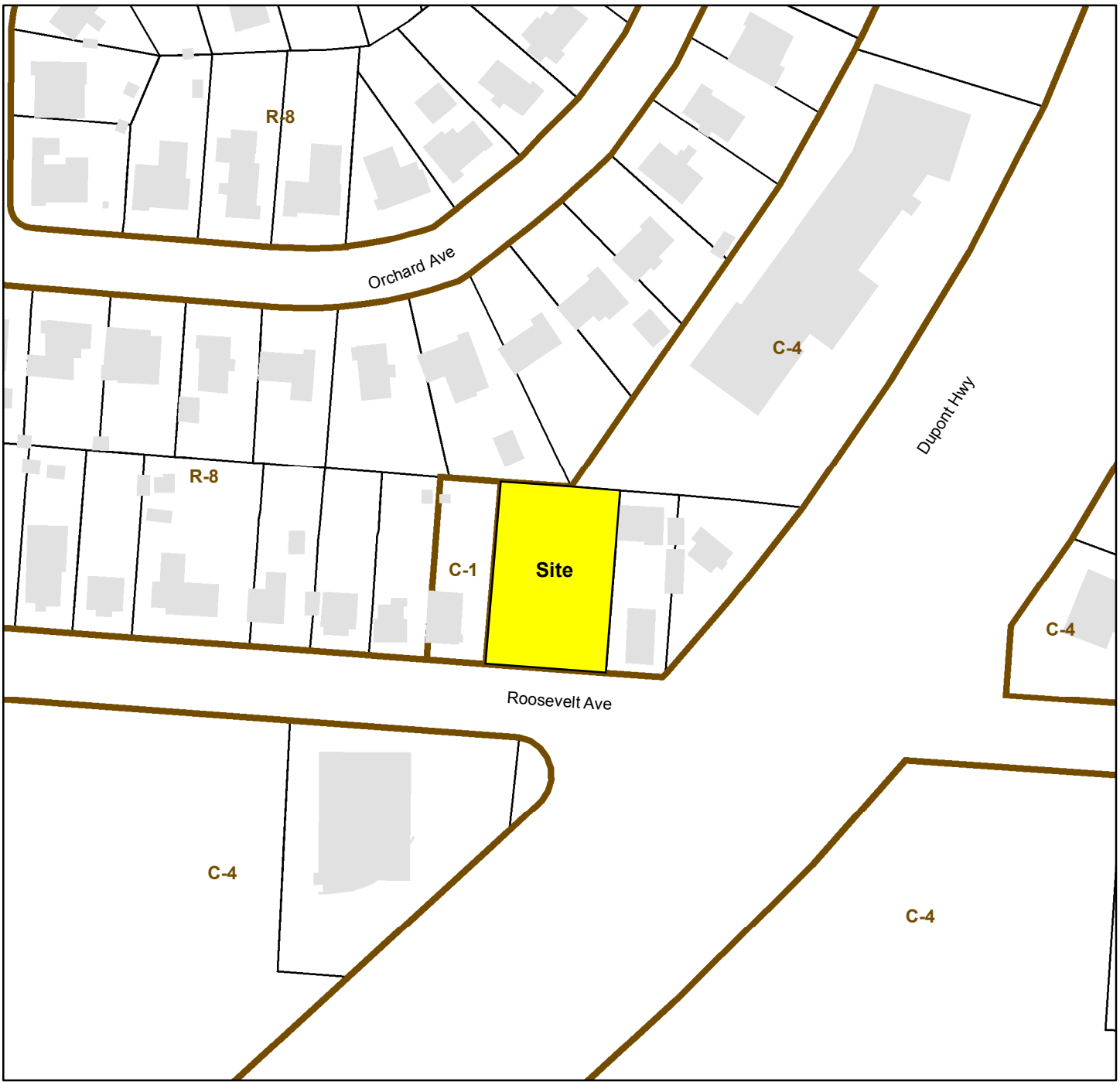
Exhibit	Description/Author	# Pages
A	Zoning Map Exhibit (Staff)	1
B	Applicant Statement (Applicant)	4
C	Site Aerials (Applicant)	2
D	Parcel Survey Plan (Applicant)	1(8.5”x14”)
E	Conceptual Site Plan dated March 16, 2017 (Applicant)	1 (24”x36”)
F	Alternate Site Plans	
	F1: Plan dated September 21, 2016	1
	F2: Plan received March 13, 2017	1

City of Dover

Department of Planning & Inspections

Exhibit A

Application No.: V-17-11



Title: Lands of JCD Investments LLC
Address: 53 Roosevelt Avenue
Parcel ID: ED05-077.17-05-73.00-000
Zoning: C-4
Owner: JCD Investments LLC
Date: 3/30/2017

Legend

- 2012 Buildings
- Zoning
- Dover Parcels
- Subject Property

N
W
E
S

0 75 150 300 Feet

KEY ENGINEERS
established 1974
~Celebrating Over 43 Years of Excellence~

ENGINEERING & PLANNING
Municipal
Consulting
Construction
Residential
Commercial
Industrial
Construction Management

SURVEYING
Residential
Commercial
Industrial
Governmental
Construction

March 16, 2017
Revised March 30, 2017

RE: **PROJECT NARRATIVE**
Information to Support Rear Yard Setback Variance for
Proposed Kent Pediatrics Medical Building
53 Roosevelt Avenue, City of Dover Delaware
(KEI#36-42)

JCD Investments, LLC (aka Kent Pediatrics) is proposing to construct a one story 42' x 60' medical office building located on vacant land known as 53 Roosevelt Avenue in the City of Dover, Delaware. The total floor area of the medical office will be 2520 sf.

The parcel of land, tax parcel # ED-05-077.17-05-73.00-000 is located in the C4 commercial zoning district approximately 50 feet from the intersection of U.S. Route 13. The property is surrounded by the C4 - Commercial Zone to the east and west and the R-8 Residential Zone boundary adjoins the property along the rear (north). The property consists of a vacant wooded lot that is 100 feet wide by 153.50 feet deep or 15,350 sf (0.352 acres). A single family home with a bituminous driveway existed on the property until the summer of 2007; at that time dwelling was demolished and the property has remained vacant.

A hair salon (Cuts-R-Us) which operates in a 26' wide by 40' deep (1040 sf) one story building is located on the property immediately to the west of the site. The parking area behind the hair salon is large enough to park 10 or more automobiles. H and A Electric Company operates from several buildings with a 15 space automobile parking lot on the adjoining property east of the subject site. Single story brick ranch style homes are located on Orchard Avenue and contain rear yards that abut the subject property to the north. A large pole barn structure is located in one of the rear yards directly adjacent to the site. South of the subject site on the opposite side of Roosevelt Avenue is a large medical office building (7800 sf+/-). A solid wood stockade fence located on the adjoining residential property to the north is constructed along the rear property line common with the subject site. The remaining sections of the immediate neighborhood to the west of the hair salon contain residential dwellings on the north side of Roosevelt Avenue. The entire area on the south side of Roosevelt Avenue consists of large commercial and office buildings and uses.

The applicant proposes a 2,520 sf medical Pediatric office that will contain 14 parking spaces together with other stormwater management, lighting and landscaping amenities. In February, 2017 the Board of Adjustment approved a variance request to allow the applicant to exceed the required number of

parking spaces for the site by 30 percent (Article 6, Section 3.11). The concept for that application illustrated the proposed parking facilities behind the proposed medical office building.

After careful consideration, the applicant now desires to situate the proposed building 91 feet from the right of way line of Roosevelt Avenue with the parking lot located in front of the building approximately 22.5 feet from the right of way line. This concept offers the following advantages for the site and the surrounding properties in the area:

1. A reduction of approximately 20% in proposed impervious coverage.

2. More undeveloped area for green space, landscaping and stormwater management.

3. The proposed parking in front of the site eliminates the potential for impact to the residential neighbors to the north of the site in terms of automobile noise, noise by patrons, head light glare, pole mounted site lighting, etc.

In order to facilitate this proposed concept, a variance to reduce the rear yard building setback requirement of 30 feet (Article 4, Section 4.15 of the Municipal Code) to 20 feet is necessary.

The granting of a variance to permit the reduction in the rear yard setback would, in no way, negatively affect the adjoining and neighboring properties for the following reasons:

1. The proposed medical office use is similar in nature and intensity of use to the other commercial uses surrounding the project site.

2. The immediate surrounding uses (hair salon, electric supply, medical offices) generate similar traffic trips and traffic circulation patterns to the proposed use. Therefore, no increase in traffic volume or trip frequency above what is normally experienced on Roosevelt Avenue is expected.

3. A large 25 feet by 40 feet garage structure is constructed less than 10 feet from side and rear property lines on the adjoining property to the east (H & A Electric site).

4. A large 20 feet +/- by 25 feet +/- garage structure is constructed in the rear yard of the residential property directly behind the subject site to the north. The structure appears to be approximately 11 feet from the property line.

5. The residential properties to the north, east and west of the site will be properly screened in accordance with the municipal code to eliminate visual impacts, headlight glare and noise from the small parking lot. As stated earlier, the location of parking facilities in the front of the proposed building eliminates the potential for negative impacts to the residential uses.

6. The site directly across Roosevelt Avenue to the south consist of a commercial office building with a parking lot that is located in the front yard of the property that contains frontage along Roosevelt Avenue. Directly adjoining this commercial property, a second office complex exists with a parking lot that also exists within the front yard area of Roosevelt Avenue. At the intersection of Roosevelt Avenue and

South State Street, a Walgreens Pharmacy occupies the southeast corner and a Funeral Home occupies the northeast corner. Both of these commercial properties contain parking facilities within the front yard area on Roosevelt Avenue. Clearly, the proposed concept is consistent with parking arrangements in close proximity to the site as well as beyond the limits of the site along the Roosevelt Avenue corridor. Because of the surrounding commercial uses and site layouts, the proposed concept would not change the character of the neighborhood or the intent of the zone.

7. The hours of operation for the medical office will be 8:30 am to 5:00 pm, Monday thru Friday. Therefore, the operation of the facility is not expected to negatively impact the adjoining residential uses to the northeast or west in the evening hours or on weekends.

If the requested variance is not granted by the Board of Adjustment, the applicant will not be able to develop the site in a way that minimizes the negative impact to adjoining residential uses to the north. The front yard location of parking and stormwater management facilities is the best possible scenario for developing the permitted use.

Also, it is the intent of the Federal Stormwater Regulations to treat stormwater runoff from the development of impervious surfaces utilizing non-structural Best Management Practices. The State of Delaware enforces the federal regulations through the local County Soil Conservation District. By allowing the construction of the building to take place towards the rear of the site and situating the parking facilities in the front of the property, the revised layout allows for the reduction of over 1500 square feet of proposed impervious coverage. This logic is consistent with the intent of the stormwater regulations by limiting the amount of impervious coverage generated. If the Board of Adjustment did not grant the requested variance, the applicant would not be fulfilling the intent of the stormwater best management practices and over 1500 square feet of additional impervious surface would have to be treated. The result would be a greater volume of water to be stored and infiltrated which in turn creates more stormwater basin area on the site.

By situating the proposed building in the rear of the site and requesting the rear yard variance, additional stormwater best management practices are able to be fulfilled since green space is able to be created in front of the proposed parking lot along Roosevelt Avenue. This green space is proposed to be utilized as an area to properly infiltrate stormwater runoff from the impervious surface of the parking lot to satisfy the water quality aspects of the stormwater regulations. If the Board of Adjustment did not grant the requested variance, the applicant would not be fulfilling the intent of the stormwater best management practices.

The revised layout will insure that surface stormwater runoff generated by the parking area is directed completely away from the proposed building structure and any over flow from significant rainstorms will be immediately directed to Roosevelt Avenue where it can be properly intercepted and controlled by the roadway. The previous design concept directed runoff generated by the parking lot to flow around the building foundation which is an undesirable condition.

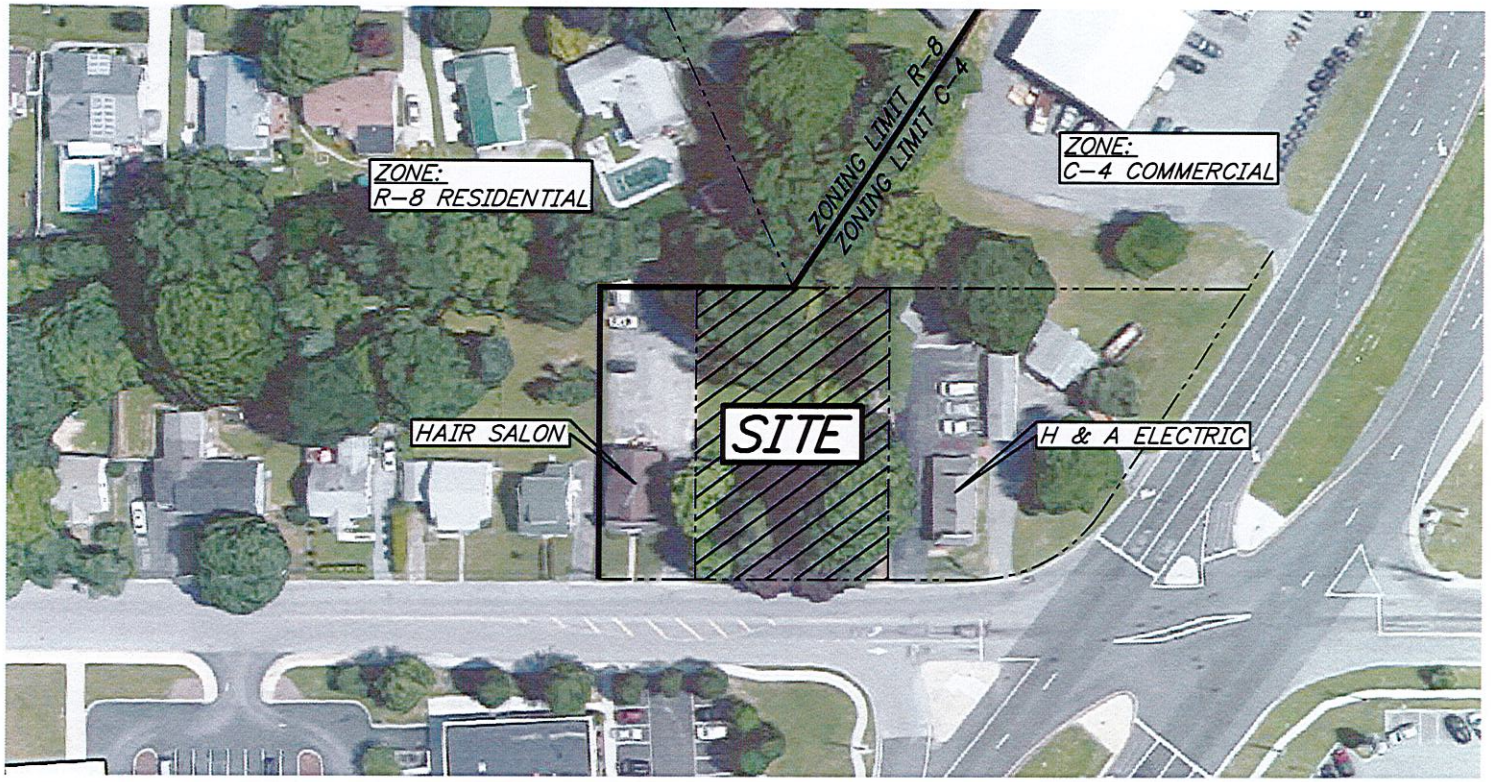
Finally, by placing the building structure in the rear of the site, all of the activity that will create impact such as noise and light will be situated along Roosevelt Avenue where surrounding commercial uses and parking facilities already exist. Since the properties located behind the subject site contain residential homes, the proposed building will screen the residential properties from any impacts generated from the use of the parking area. The commercial uses to the east and west of the property should not be impacted by the parking proposed in the front yard area since parking activities are directly related to the commercial uses that exist on both sides of the site. If the Board of Adjustment did not grant the requested variance, the buffer separation created by the building between the residential uses and the proposed commercial use would not be able to be created.

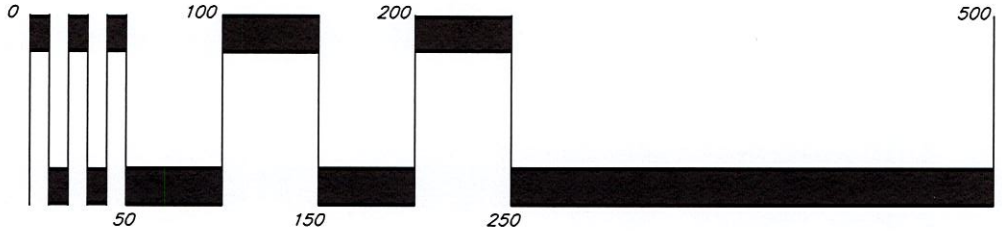
Projects\36\42\3-16-17 ZBA\Project Narrative March 2017

Exhibit C


Michael J Ambruso
Funeral Home
SITE
oosevelt Ave
Roosevelt Ave
Roosevelt Ave
Roosevelt Ave
The Salva
Pentec
Family Ch
Kent Pediatrics
Walgreens

Exhibit C





Graphic Scale:

1 Inch= 100 Feet

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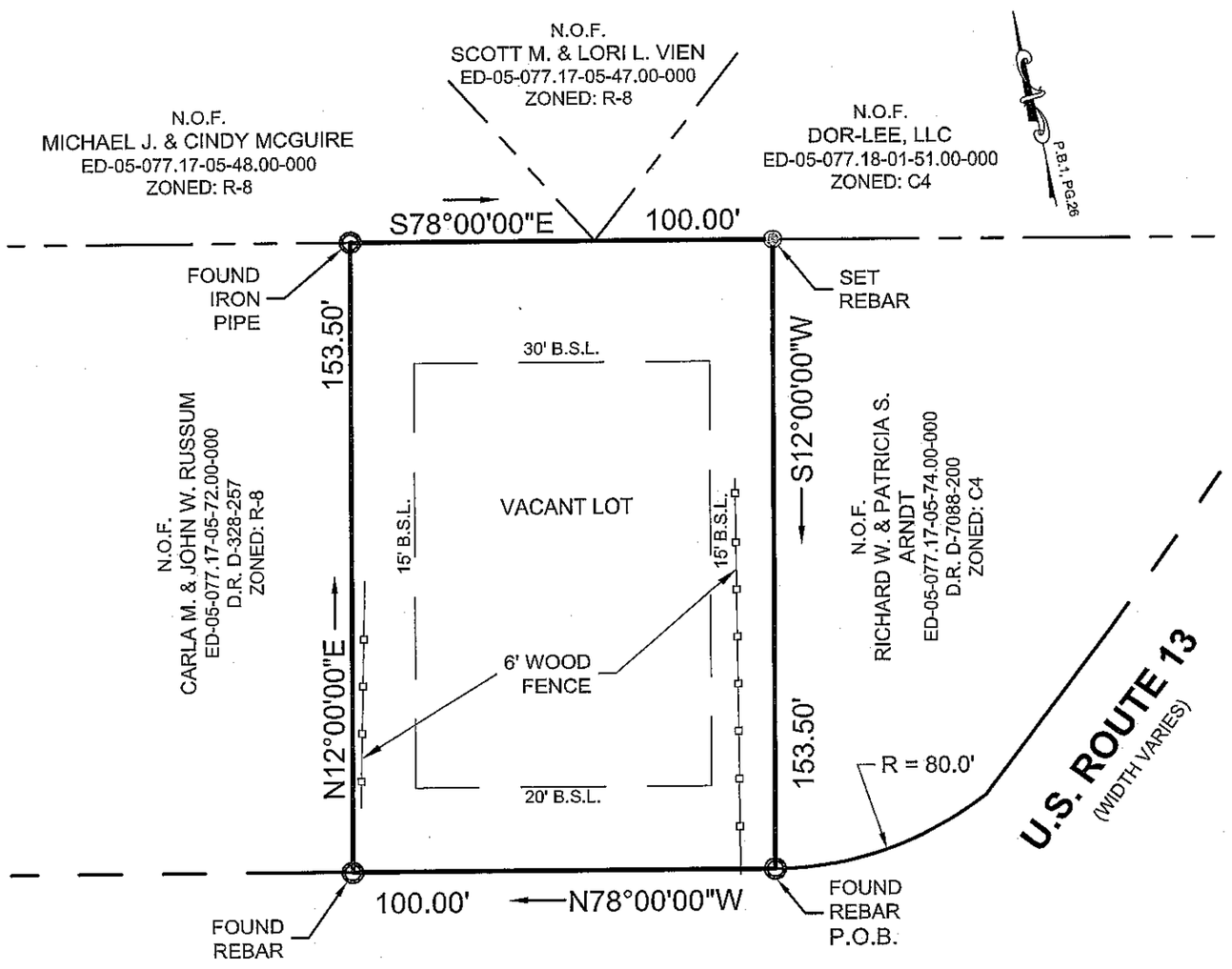
REV.	DATE:	DESCRIPTION	DRWN.	CHKD.

Surrounding Zoning and Use Map

Tax Map Parcel No. ED-05-077.17-05-73.00-00
Lots No. 18 & 19
53 Roosevelt Avenue

City of Dover
Delaware

M:\M4400s\00-49\M-4414\KENT PEDIATRICS\dwg\MS-KENT PEDIATRICS.dwg 11/9/2016 3:01:03 PM EST



ROOSEVELT AVENUE

(WIDTH VARIES)

P.O.B.-POINT OF BEGINNING

NOTES

1. TAX MAP PARCEL NO. ED-05-077.17-05-73.00-000
2. ZONING: C4 (FRONT YARD: 20'; SIDE YARD: 15'; REAR YARD: 30' ADJOINING A RESIDENCE ZONE)
3. SELLER: RICHARD & PATRICIA ARNDT (DEED REFERENCE D-7655-130, P.B.1, PG.26)
4. LOT AREA = 15,350.0± SQ.FT. (0.352± ACRES)
5. DATE OF FIELD SURVEY- 11/2/16
6. PROPERTY MAY BE SUBJECT TO RESTRICTIONS AND EASEMENTS DESCRIBED IN DEED RESTRICTIONS OR AS FOUND IN SUBSEQUENT TITLE SEARCH.
7. THIS PLAN SHALL NOT BE REPRODUCED, TRANSMITTED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER RESPONSIBLE FOR ITS CONTENTS.
8. 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 .
9. DECLARATION IS MADE TO ORIGINAL PURCHASER OF SURVEY. SURVEY IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF ENGINEER.
10. NO TITLE EXAMINATION FURNISHED TO OR PERFORMED BY THE PREPARERS HEREOF.

PARCEL SURVEY PLAN

OF

INGRAM LOTS, LOT NO. 18 & 19

53 ROOSEVELT AVENUE

DOVER, DE

FOR

JCD INVESTMENTS, LLC

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

CLASS 'B' SURVEY

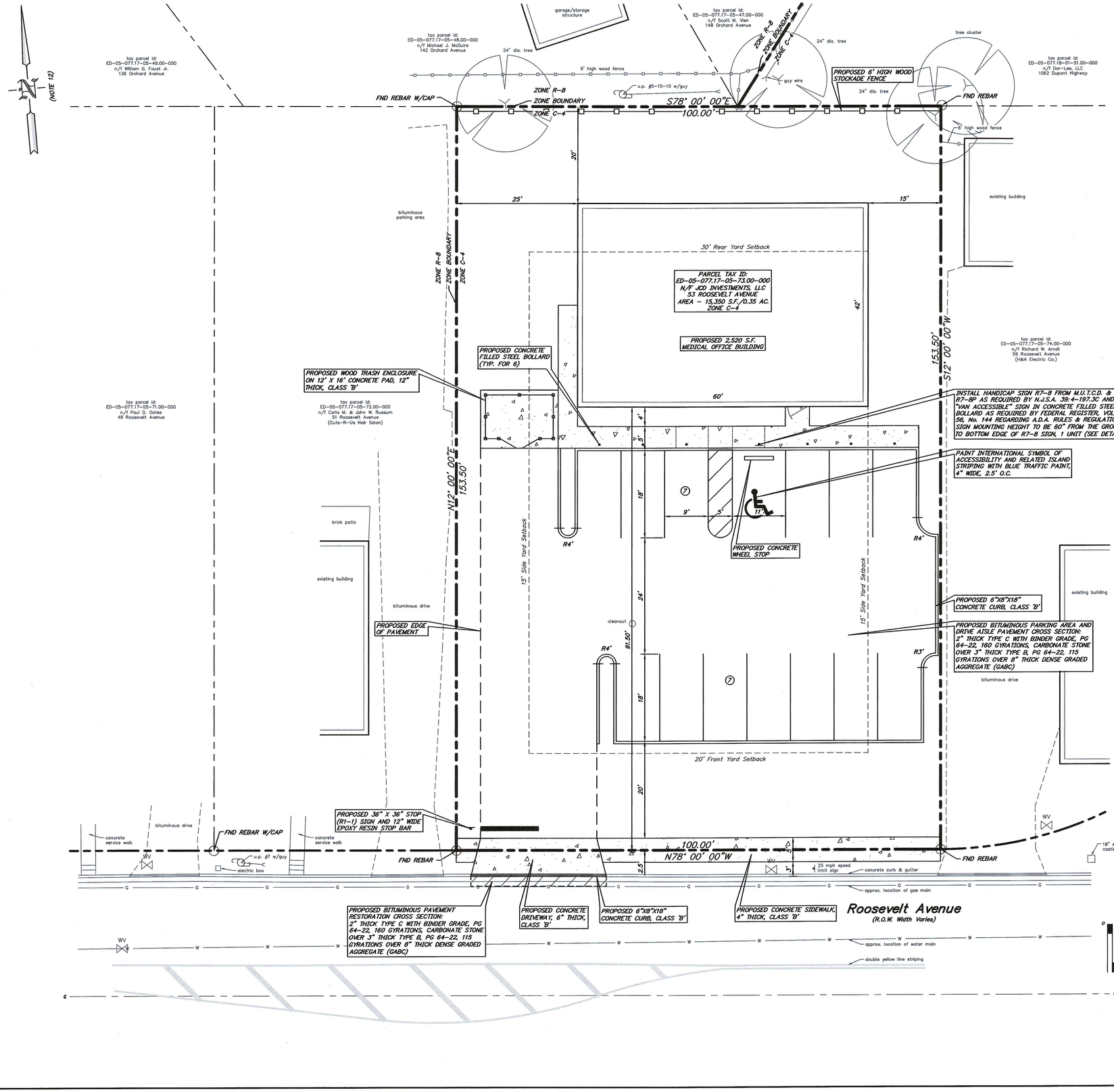
I HEREBY DECLARE THAT THIS SURVEY PLAN ACCURATELY SHOWS THE BOUNDARY OF THIS PARCEL AS DETERMINED BY EVIDENCE FOUND IN THE FIELD AND WITH DEEDS OF RECORD, THAT IT ACCURATELY DEPICTS ALL IMPROVEMENTS AS LOCATED ON THE PREMISES DESCRIBED, AND THAT THERE ARE NO ENCROACHMENTS UPON THE PREMISES DESCRIBED BY THE IMPROVEMENTS OF ANY ADJOINING PREMISES.

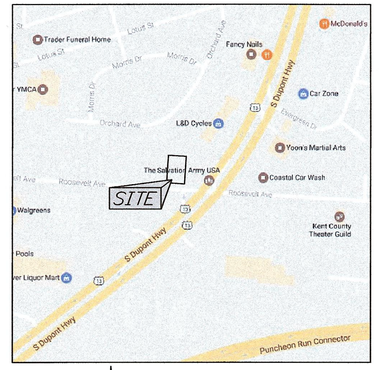
GREGORY R. SCOTT, P.E. _____ DATE

SCOTT ENGINEERING, INC.
Consulting Engineers · Surveyors · Land Planners
22 Old Rudnick Lane, Suite 2
Dover, DE 19901
302-736-3058

DRAWING NO.	M-4414	SCALE:	1"=40'
DRAWN BY.	S.E.I.	FLD. BK. NO.	MS-52

Exhibit E





Location Map

Scale: 1 inch = 400 feet
Taken from GOOGLE MAPS

General Notes:

1. OWNER/APPLICANT: JAMES MEDVED/JCD INVESTMENTS, LLC, 89 BANDCROFT DRIVE, CAMDEN-WYOMING, DELAWARE 19934
2. PROJECTION LOCATION: 53 ROOSEVELT AVENUE, DOVER, DELAWARE 19901
3. TAX PARCEL ID: ED-05-077.17-05-73.00-000
4. AREA: 15,350 S.F./ 0.35 ACRES ±
5. ZONING: C-4 - HIGHWAY COMMERCIAL
6. EXISTING USE: VACANT, PARTIALLY WOODED LOT
7. PROPOSED IMPROVEMENTS: 42' X 60' MEDICAL OFFICE BUILDING WITH PARKING
8. FEMA FLOODPLAIN MAP: MAP NUMBER 10001C0169J, ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN
9. AREA & BULK REQUIREMENTS:

BUILDING REGULATIONS	REQUIREMENT	PROPOSED	VARIANCE
MINIMUM LOT WIDTH	150'	100'	*YES
MINIMUM LOT DEPTH	150'	153.50'	NO
MINIMUM FRONT YARD	20'	91.50'	NO
MINIMUM SIDE YARD	15'	15.00'	NO
MINIMUM REAR YARD (ADJOINING R ZONE)	30'	20.00'	YES
MAXIMUM BLDG. HEIGHT	75'	<30'	NO
FLOOR AREA RATIO	4.0	0.16	NO

*DENOTES EXISTING CONDITION

10. PARKING REQUIREMENTS:
MEDICAL OFFICE
REQUIRED:
   - 1 PARKING SPACE PER 300 S.F. FLOOR AREA MINIMUM AND NOT TO EXCEED 25% OVER THE NUMBER OF PARKING SPACES REQUIRED.
     - 2,520 S.F. FLOOR AREA / 300 = 9 PARKING SPACES MINIMUM
     - 9 PARKING SPACES X 25% = 2 SPACES + 9 SPACES = 11 PARKING SPACES MAXIMUM

PROPOSED:
   - 13 - 9' X 18' PARKING SPACES
   - 1 - 11' X 18' VAN ACCESSIBLE PARKING SPACE
   14 TOTAL PROPOSED PARKING SPACES

11. VARIANCES REQUESTED:
    1. REQUESTING A VARIANCE FROM APPENDIX B, ARTICLE 4, SECTION 4.15 TO PERMIT A LOT WIDTH OF 100.00' (EXISTING CONDITION) FROM THE REQUIRED 150' AND TO PERMIT A REAR YARD SETBACK WHEN ADJOINING A RESIDENTIAL ZONE OF 20' FROM THE REQUIRED 30'.
    2. A VARIANCE WAS GRANTED BY THE BOARD AT THE FEBRUARY 2017 MEETING TO ALLOW A 55% INCREASE IN THE NUMBER OF PARKING SPACES (14 SPACES PROPOSED) FROM THE REQUIRED 25% MAXIMUM INCREASE (11 SPACES PERMITTED).
12. OUTBOUND INFORMATION OBTAINED FROM A "PARCEL SURVEY PLAN OF INGRAM LOTS, LOT NO. 18 & 19, 53 ROOSEVELT AVENUE, DOVER, DE FOR JCD INVESTMENTS, LLC" PREPARED BY SCOTT ENGINEERING, INC.
13. TOPOGRAPHIC INFORMATION OBTAINED FROM FIELD WORK PERFORMED BY KEY ENGINEERS, INC. ON DECEMBER 20, 2016.
14. PLAN BEARING DATUM IS ASSUMED.
15. ACCORDING TO THE "DELAWARE TIDAL AND NON-TIDAL WETLANDS MAP", NO FEDERAL OR STATE DELINEATED WETLANDS EXIST ON THE SITE.

Graphic Scale:

1 Inch= 10 Feet

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REV.	DATE:	DESCRIPTION	DRWN.	CHKD.

Concept Plan

Kent Pediatrics
Tax Parcel ID: ED-05-077.17-05-73.00-000
#53 Roosevelt Avenue

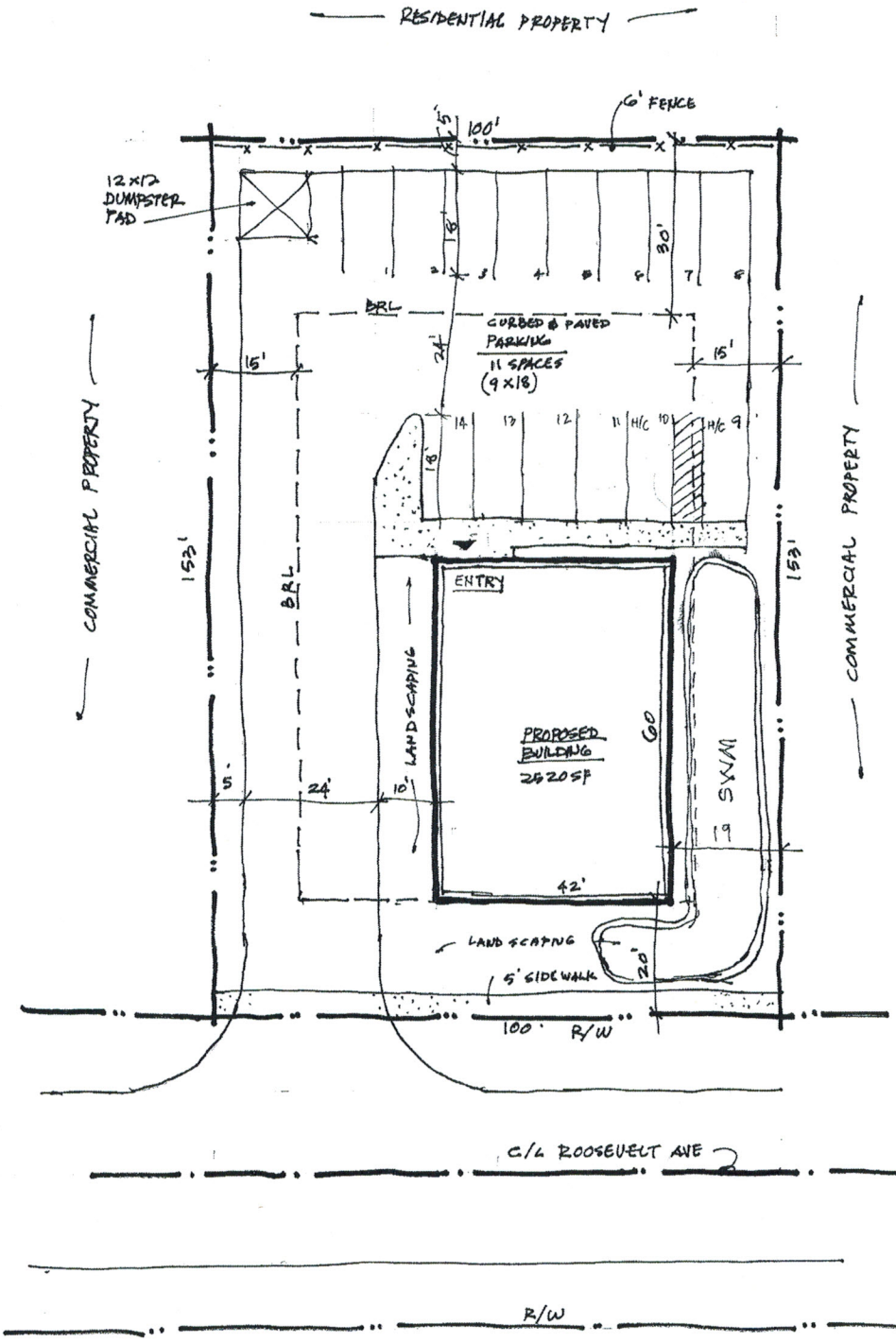
City of Dover
Kent County, Delaware

DATE: 02/21/17 | DRAWN BY: T.D. | CHKD. BY: G.B.F. | SCALE: 1" = 10'
PROJECT No. 36-420E1216 | FIELD BOOK/PAGE: | SHEET No. 1 OF 1

GREGORY BLASE FUSCO
PROFESSIONAL ENGINEER
NJPE No. 32853 PA.PE No. 036608-E
NJ PROFESSIONAL PLANNER No. 4076

KEY ENGINEERS, INC.
80 S. WHITE HORSE PIKE
BERLIN, NEW JERSEY 08009-2399
CERTIFICATE OF AUTHORIZATION #24GA28041300
phone:(856) 767-6111
fax:(856) 753-1091
www.keyengineers.com

DATE 3/14/17



CONCEPTUAL SITE PLAN

1" = 20'

.35 ACRES

NORTH

KENT PEDIATRICS

53 ROOSEVELT AVE ZONED C-4

MAP # 2-05-07717-05-7300-00001

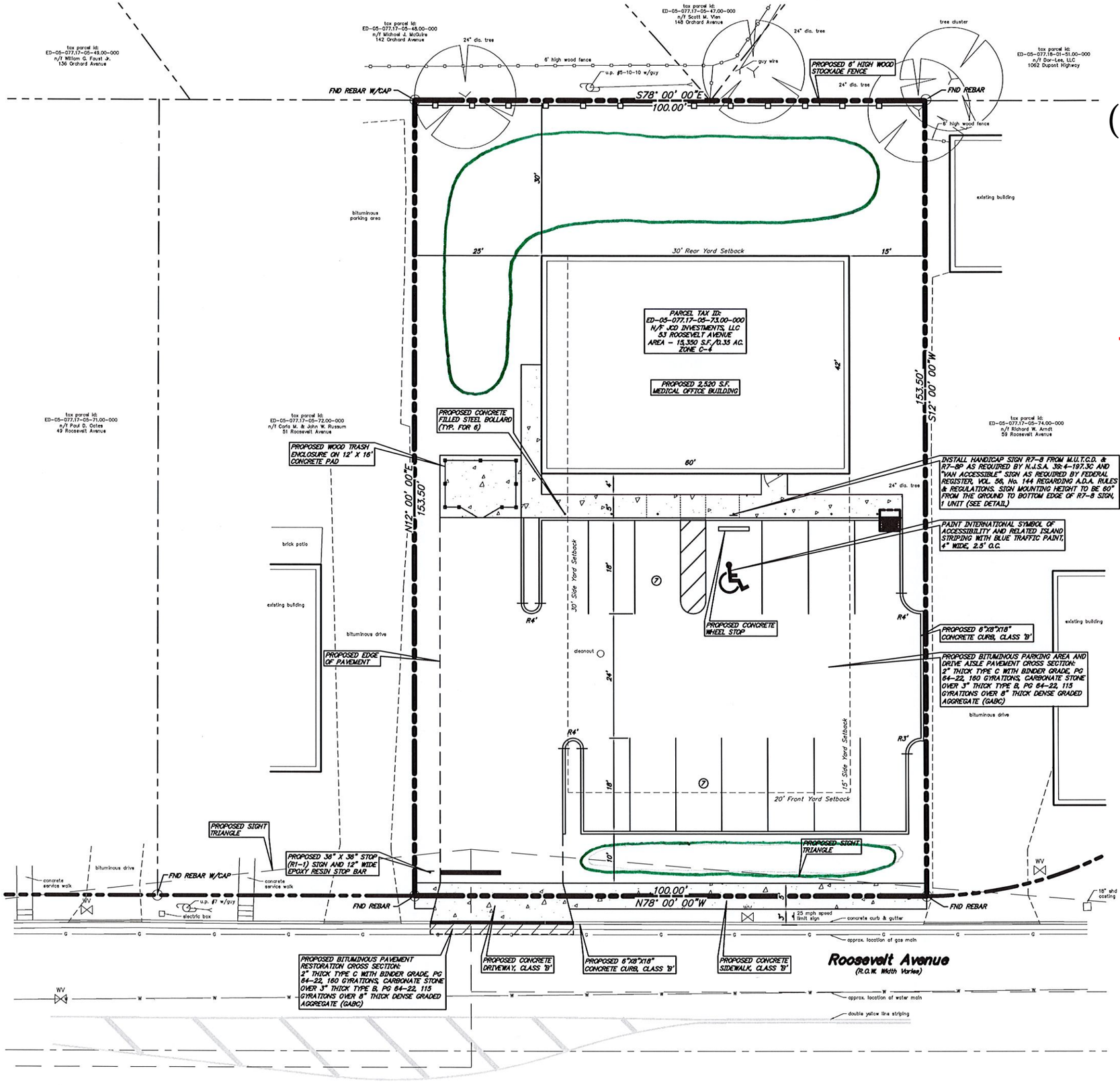
REV. - 21 SEPT 2016
17 SEPT 2016

SK-1

WILLIAM BYLER JR - ARCHITECT

Exhibit F2
(Recieved 3-13-17)

~~REQUIRES SIDE YARD VARIANCE.~~
~~30' Required~~
~~25' Provided~~



SKETCH 'A'