CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
April 19, 2017

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, April 19, 2017 at 9:03 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. Melson-Williams, Mrs. Purnell, Mr. Diaz, and Deputy City Solicitor Mr. Pepper.

APPROVAL OF AGENDA

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

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

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

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATION

Mrs. Melson-Williams, Principal Planner of Planning and Inspections stated that the meeting today will be conducted in accordance with the agenda. There is one (1) revised application on the agenda under Old Business and there are two (2) new applications on the agenda under New Business. The application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. If the Board needs to consult the City Solicitor, they will recess to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

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

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.

Exhibits for the Record: Staff report, zoning exhibit, statements submitted by the applicant, and the Board's prior decision. Legal Notice was published in the Delaware State News on April 9, 2017. The public was notified in accordance with regulations.

Mr. Diaz gave a brief overview of the application. He also had one correction to the text of the Staff Report on page 6. It should read as follows: "Staff recommends approval of the variance for the 20 square feet increase in sign area for the monument sign to permit a 32 square foot sign for reasons as follows:"

Colonel Ericson questioned whether the application would set a precedent if approved and be the standard going forward as he referred to the Variance Recommendation that stated "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*." Mr. Diaz replied no, he did not believe so. The church is on an Urban Minor Arterial and that more than anything else is driving the need for a sign that is large enough for the vehicles to see at a certain rate of speed. Not all nonresidential uses in residential zones will be on streets like that.

Mr. Hufnal questioned whether the proposed sign would be the same size (32 square foot) as the existing sign approved back in September 28, 1994 with Building Permit #012577? Mr. Diaz replied yes.

Chairman Sheth questioned if this was an area on Saulsbury Road and north of Walker Road it's called McKee Road and that to the south there is a DelDOT road project that will connect to Route 13. Mr. Diaz confirmed this statement and that McKee Road connects to Scarborough Road which connects to Route 13. Mrs. Melson-Williams replied that as Saulsbury Road continues south the portion of the road that is south of North Street is under construction as the West Dover Connector. It does in fact ultimately connect to DuPont Highway at the Rodney Village Shopping Center.

Mr. Keller questioned for clarity whether this application was deemed to negate the approval of January 18, 2017 and be supplemented by whatever action is taken today as a revision or is it in fact a new application for an additional 8 square feet? Mr. Pepper replied that he reviews it as a request to revise the decision. It does not negate the January 18, 2017 decision.

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

Representative: Mrs. Kim Diehl, Kent Signs

Mrs. Diehl was sworn in by Mr. Pepper.

Mrs. Diehl stated that the reason she was in front of the Board today is because she came before the Board in January and requested a 24 square foot sign. Then she and the applicant thought that

the 24 square foot sign was ordered by a member of the church. She worked with one person from the church and another person from the church ordered the sign. The sign was not ordered through Kent Signs. Kent Signs will only be installing the sign for the church. When the sign arrived and Kent Signs went to install the sign, it was 32 square feet. She then had to go back to the church and inform them that the sign was too large. There was just some confusion between the person ordering the sign and the person who requested the variance. After which she contacted the City for guidance and was then informed that the applicant would need to come back before the Board to request the 32 square foot sign. The existing sign as stated by Mr. Diaz is 32 square feet. The existing signs in the neighborhood are also 32 square feet or larger (pictures were submitted). The sign will be in keeping with the character of the neighborhood. The hardship as also stated by Mr. Diaz is that vehicles travel pretty fast on that road and the church needs the larger sign to be seen. The other hardship is the 32 square foot sign has arrived and now we are just waiting to get it installed.

Colonel Ericson questioned how much it would cost to go back to a 24 square foot sign? Mrs. Diehl replied that the church would not be able to return the 32 square foot sign that has arrived. She was not aware of the sign cost as it was ordered by a member of the church. She estimated $20,000-$30,000. They would then have to return one sign and order another a new sign which would be very costly.

Mr. Keller questioned the January 18, 2017 submission of a 4x6 (24 square foot) sign as an exhibit for the proposed sign. Mrs. Diehl replied that is correct and that is what was given to her from the church. As previously stated, Kent Signs is only installing the sign. All of the paperwork was received from the church to submit the variance. There was some confusion in-house regarding the signage. When the information was submitted to Kent Signs from a member of the church, she thought the sign that was ordered was 24 square feet, but when the sign arrived it was 32 square feet.

Mr. Keller questioned for clarification whether Mrs. Diehl represented the Kent Signs Company? Mrs. Diehl replied yes.

Mr. Keller questioned for clarification whether Kent Signs Company placed the order for the 24 square foot sign? Mrs. Diehl replied no Kent Signs Company did not place the order for the sign; the order was placed by the church. Kent Signs was contacted to install the sign.

Chairman Sheth questioned whether the old sign would be removed? Mrs. Diehl replied yes, the existing 32 square foot sign will be removed and replaced with the new 32 square foot sign.

Chairman Sheth questioned the zoning in this area? Mrs. Melson-Williams replied that the zoning in this area varies. The church property is RG-1. There is a variety of different zoning classifications including areas that are commercial in this corridor. If you look at Exhibit A, it does indicate the zoning in the general area. Across the street it is CPO (Commercial Professional Office), immediately to the north is the NCALL building and Walker Square which consists of office buildings. All of them carry a larger sign element for placement of signage.

Chairman Sheth questioned the C-4 area that is further south. Mrs. Melson-Williams replied that there is no C-4 in this area. Immediately to the south across Whatcoat Drive is RG-2 which is the location of the Whatcoat Apartments complex. There is also the Playtex property which is zoned IPM (Industrial Park Manufacturing).

Colonel Ericson questioned whether a majority of the signs in that area are 32 square feet or larger? Mr. Diaz replied that a majority of the signs in that area are 32 square feet, not more and not much less.

Colonel Ericson questioned whether the sign would be consistent with the neighborhood? Mr. Diaz replied yes. Mrs. Melson-Williams replied that it is a mixture of C-1A and C-2A. The C-4 was the (Highway Commercial Zone) which is found on Route 13 corridor.

Chairman Sheth opened the public hearing.

Rev. Elmer Davis was sworn in by Mr. Pepper.

Representative: Rev. Elmer Davis, Pastor of Whatcoat United Methodist Church

Rev. Davis testified that the church just wanted to be in compliance with the City requirements. He believes they will be consistent with everything that is on Saulsbury Road. They want to do the right thing and he is present today looking for the Board approval. It would probably be costly to return the sign. He prefers to keep the sign and move forward with the Board approval to install the sign.

Mr. Keller questioned whether there was a timeframe within which the sign will be ultimately erected? Rev. Davis replied if the sign is approved today, it will be installed next week. All of the ground work and electrical wiring has been completed, we are just waiting for the Board approval.

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.

Colonel Ericson moved to approve revised variance application V-17-02 which is a unique case and the fact that they previously came before the Board and tried to do the right thing and get the correct size for the sign, but there was an error in the order and now they are replacing a sign that is the same size that is currently there. The regulations do not really cover this unique situation and now they are stuck with a 32 square foot sign and it cost well over $20,000 to replace and it seems that this is reason to approve this request. The motion was seconded by Mr. Hufnal and was unanimously carried 5-0.

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.

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 April 9, 2017. The public was notified in accordance with regulations.

Mr. Diaz gave a brief overview of the application.

Colonel Ericson stated that he was under the impression and questioned whether the Code stated that barbed wire fence was not allowed in a residential zoned area? Mr. Diaz replied that the Code states that you cannot have barbed wire along a residential property line and it applies whether the property itself is zoned residential or commercial.

Colonel Ericson questioned whether the Building Permit that was obtained allowed the applicant to put barbed wire around three (3) sides, but not the fourth side? Mr. Diaz replied correct. The other three (3) sides are not adjacent to residential property lines.

Colonel Ericson questioned the closest residential area from this property? Mr. Diaz replied the adjacent residential property is the parcel zoned RG-O at the rear. It is not actually a residential use and there are other areas zoned R-8 within a block or two north of Wyoming Avenue, across the street on Governors Avenue, and also behind the DSWA (Delaware Solid Waste Authority) property on Bradford Street.

Colonel Ericson questioned whether there were families with small children living in that area? Mr. Diaz replied that he would not know the exact composition of those families. He would presume it to be the case.

Mr. Hufnal commented that the neighboring property to the rear is the main concern which is Delaware Solid Waste Authority that is zoned RG-O and it is highly unlikely that they would sell the property back to residential. Mr. Diaz stated that it was the Planning Office's assessment as well.

Mr. Hufnal questioned whether this would be the property that the Board is most concerned with? Mr. Diaz replied yes.

Mr. Hufnal questioned whether approval was already given from neighbor? Mr. Diaz replied yes, it was page 24 in the package.

Chairman Sheth questioned whether there was any fence between the proposed fence and the barbed wire? Mr. Diaz replied yes. The Delaware Solid Waste Authority has their own vinyl fence (referring to page 20 in the packet). There is roughly 1 to 2 feet of gap between the applicant's fence which has the barbed wire and the Delaware Solid Waste Authority fence

which is made of opaque vinyl.

Chairman Sheth questioned whether there was a fence between the two (2) properties? Mr. Diaz replied that there were basically two (2) fences back to back.

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

Mr. Thomas Deladvitch was sworn in by Mr. Pepper.

Representative: Mr. Thomas Deladvitch, Owner

Mr. Deladvitch testified that he was trying to clean up the property from the previous owner. Previously, there were several different types of fences installed. Over a period of time the old fences were taken down and the property was cleaned. During the South Governors Avenue project, we stopped because the property next to his was being used, as well as, his property for their materials and equipment. There were several berms left in the area and they are still trying to work with local contractors to correct the issue. Also, during this time there had been numerous thefts. There are two (2) trailers that he uses for his business on the property that house all of his equipment. After the thefts he contacted Forrest Fence to install the fence. Forrest Fence received permit approval to install the barbed wire on top of the fence. A few days afterwards Forrest Fence came back and informed them that a variance needed to be approved for the barbed wire fence. He contacted the City and also thanked Mr. Diaz for a fantastic job in assisting him as well as contacting all of the neighbors with 200 feet. They also have cameras on the property for protection and personal issues. All of the neighbors are in favor of the project. They are looking for the Board approval to allow the use of the barbed wire on the fence adjoining a residential zone. They are aware that Delaware Solid Waste Authority fence is on their property and they were informed that it was not a big deal. The applicant uses the back lot for more storage than anything else. There are times that he along with his team members have to go out of town for training and he would like to keep the barbed wire for safety. The applicant has also installed lighting on the property for safety reasons. He thought about extending into the area to the right side of the back yard, but if they only came off of the back fence there was only an 18-foot area to fence which is not large enough for them to use. They also use the extra area for overflow of traffic and parking. While doing the South Governors Avenue project, they lost two (2) parking spaces and Pivot Physical Therapy lost two (2) parking spaces. There are roughly four (4) people who park in the back to allow parking spaces for customers. The space (30x18) is also used for an additional snow area and was agreed upon with he and Pivot. In 2010, there was roughly a snow pile that was 18-feet high.

Mr. Keller questioned for clarification when the applicant referenced the Governor's Avenue project if that was the Delaware Department of Transportation reconstruction/widening improvement of Governor's Avenue. Mr. Deladvitch replied correct.

Mr. Keller questioned for clarification that it was not a project on the part of the Applicant on Governor's Avenue? Mr. Deladvitch replied no.

Colonel Ericson questioned whether there had been any theft since installing the barbed wire fence? Mr. Deladvitch replied no.

Colonel Ericson commented that it looks as if someone could still get over the barbed wire fence if it was covered with a couple of blankets. Mr. Deladvitch replied he is sure they could, but in his opinion it keeps most honest people honest. They have found drugs in the area and clothing. Delaware Solid Waste Authority has also experienced problems.

Mr. Keller questioned as he referred to the revised plan (Exhibit B) and the area marked with x's whether it was proposed fencing or something on the plan which is now eliminated by placing the x's around the box? Mrs. Melson-Williams replied that Exhibit B is the plan that was submitted as part of the Permit application. The typical way of marking a fence location is a line with x's, so that it does not look like a property line. That sheet shows where the fence would be constructed. Mr. Deladvitch replied that Forrest Fence was asked to do the measurements and they would then apply for the permit. The applicant did not actually see the permit until 3-4 days after the fence was erected and Forrest Fence was ready to install the base because everything was taken care of by Forrest Fence. At that time one of the representatives from Forest Fence informed the applicant that per the permit we are not supposed to put the barbed wire on the back and that they needed to contact the City before installation.

Mr. Keller questioned for clarification as he referred to the same plan that it was noted that a chain-link fence was located all the way across the rear of the property. Mr. Deladvitch replied that it did not go all the way to the back of the property. It was a small enclosure at the back (of the office) that was disconnected from that point to the very back fence.

Mr. Keller commented that he was somewhat curious; what is presently fenced by the chain-link fence with barbed wire. Mr. Deladvitch replied that only the 40ft. x 45ft. square is the only area that is fenced.

Mr. Hufnal questioned the approximate length of the barbed wire fence next to Delaware Solid Waste Authority. Mr. Deladvitch replied 45 feet.

Mr. Hufnal questioned whether the property line was 100 feet. Mr. Deladvitch replied correct.

Mr. Hufnal questioned whether it was 45 feet of the 100 feet. Mr. Deladvitch replied yes.

Mr. Keller asked the applicant to describe in regards to the Delaware Solid Waste Authority property what the use was for the property, whether it was for office, equipment storage, etc. Mr. Deladvitch replied office and to the south drop-offs all the way to the back of their yard (down South Governor's Avenue) is their recycling. He also referred to page 19 regarding the fencing. He also mentioned the small fence area (near the office) that is used when he brings his dogs to work.

Colonel Ericson commented that he was bothered by this because normally you do not have barbed wire fencing in residential areas because young men might be tempted to go over and see what is inside. He questioned whether the applicant had ever seen anyone strung up on barbed

wire? Mr. Deladvitch replied no. Colonel Ericson replied that he has seen it several times in Vietnam and it is an ugly situation. You could be killed as well as hang up side down in a fence all night. It is very bad stuff especially since the applicant has already had people going in there before this. He questioned whether the applicant had considered the legal liability if someone should get hurt badly. Mr. Deladvitch replied that the liability portion was definitely covered under his insurance on the building. His concern was the theft and the safety of his team.

Mr. Senato questioned whether there were a few break-ins? Mr. Deladvitch replied not in the building but items stolen that were on the property.

Mr. Senato questioned whether there was a chain-link fence at that time? Mr. Deladvitch replied yes and during that time two (2) grills were stolen from the backyard.

Mr. Senato questioned how did they get those out? Mr. Deladvitch replied by opening the gate.

Mr. Senato questioned if the thief's got in by climbing over the fence. Mr. Deladvitch replied yes and by opening up the gate as he mentioned previously.

Mr. Senato questioned if all of the thefts have been through the gates. Mr. Deladvitch replied yes.

Mr. Senato questioned whether the fencing would be used to keep people out. Mr. Deladvitch replied correct.

Mr. Senato commented that anyone who goes onto your property whether it is your business or personal property and whether it is fenced, gated, or barbed wire if they get hurt it is on them.

Mr. Senato questioned the necessity for the barbed wire in that area due to the fact that all of the illegal entries have been through gating rather than climbing over. Mr. Deladvitch replied that the gate that they have access to take items out is only a 4 ½ foot fence, not a 6-foot fence.

Mr. Senato questioned whether the additional 45 feet of barbed wire would most definitely be deterrent. Mr. Deladvitch replied yes.

Mr. Senato questioned whether there was any barbed wire on the gate Mr. Deladvitch replied no.

Colonel Ericson questioned whether the Board would assume any legal liability if the barbed wire fence is approved; and if something should occur could the City be sued? Mr. Pepper replied no.

Mr. Keller questioned for clarification whether the barbed wire fencing can in fact be installed on the north side since it abuts something other than residential property as well as the south which would face the Barker Rentals property? Mr. Diaz replied that is correct, because those properties are zoned for commercial there would not be a prohibition against barbed wire fencing along those property lines. Mr. Keller replied correct.

Mr. Keller questioned whether the real issue was presently the portion of the barbed wire enclosure which faces Delaware Solid Waste Authority because it is a residential RG-O property. Mr. Diaz replied yes.

Mr. Senato questioned whether the applicant had to go through the City to get approval of the ¾ barbed wire that is currently there or if it was allowed in the *Zoning Ordinance*. Mr. Pepper replied it is not prohibited. Mr. Senato questioned the additional 45-feet. Mr. Pepper replied because Delaware Solid Waste Authority property is zoned RG-O and is a residential zone even though the use is not a residential use.

Mr. Deladvitch stated that in closing that they have complied not only with State and Local Ordinances, Codes and training, but also Federal. As he previously shared with Eddie, the barbed wire was already established and on the fence before he was aware that he needed a variance, but he was willing to do whatever needed to be done to stay in compliance with the City whether it meant taking the barbed wire off or leaving it on. Again, as a State Farm Agent he also wants to make sure that he is doing the right thing and presenting himself correctly. This is another reason he went to his neighbors for their permission and how to handle this situation.

Chairman Sheth questioned if there was any additional correspondence for the record. Mrs. Melson-Williams replied that there was additional correspondence in the form of three (3) additional statements of support from neighbors that are very similar to those already found in the packet on Exhibit pages 23-33. The additional ones received today were from Franklin Pancko located at 26 Wyoming Avenue, Ronald Matthews at 1113 S. Bradford Street, and Charles Norton at 1107 S. Bradford Street.

Mr. Keller questioned whether the most recent two (2) additional statements that give the South Bradford Street address were on the portion of South Bradford Street which is south of Wyoming Avenue and would be across the street vicinity of the Delaware Solid Waste Authority. Mrs. Melson-Williams replied that she believed some of the properties were. There are a series of parcel in the area. Mr. Keller commented that there were a couple of single family dwellings in that area and they are in support of Mr. Deladvitch's project.

Chairman Sheth opened the public hearing.

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

Mr. Senato moved to approve application V-17-10 to allow the use of barbed wire on the fence to remain based on Staff Recommendations; the named items that are being protected and may be reasonably stored on the outside; and we received positive attitude towards the residents in the area; and that Delaware Solid Waste Authority property is unlikely to be developed in the future as residential.

Mr. Hufnal amended the motion to include that there were fourteen (14) letters of support for the variance. The motion was seconded by Mr. Hufnal and was unanimously carried 5-0.

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.*

Exhibits for the Record: Staff report, zoning exhibit, and statements and plans submitted by the applicant. Legal Notice was published in the Delaware State News on April 9, 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.

Chairman Sheth stated that in the future he would like to see a copy of the actual application form that shows the signature of the owner of the property. Mrs. Melson-Williams stated that the file that is of record with the Planning Office does show that the applicant Mr. James Medved is the person that signed the application. The property owner listing name is JCD Investments LLC in the land record.

Mr. Keller commented that it would be very beneficial as in a few years past the applicant's actual application form was included in the report. Mr. Diaz replied that this could be done in the future.

Representative: Mr. Greg Fusco, Engineer and Mr. James Medved, Owner

Mr. Greg Fusco and Mr. James Medved was sworn in by Mr. Pepper.

Mr. Fusco testified on the main reason for the design change after they were granted the variance for the additional parking. They have been taking baby steps as there are a lot of different agencies that have to be satisfied and addressed. After receiving the variance for the additional parking, they took a harder look at the site and started to try to address the stormwater requirements in terms of water quality with Kent County Soil Conservation District. There was too much impervious area that needed to be treated. There was not enough green space with the previous layout. Kent County Soil Conservation District as well as the other two (2) Soil Conservation Districts in the State really stress that engineers treat the ground water in a natural way before they go to a mechanical device. Upon discussion there were other alternatives where they could create more green space, less impervious and achieve that goal. This is the result before the Board today. This is one of the primary reasons they are back before the Board today and the other primary reason is after the changes were discussed with the client it worked out better for him.

Colonel Ericson questioned whether the applicant was prohibited from using the other design or if it was recommended? Mr. Fusco replied recommended. In the report it was questioned why the stormwater could not be put underground. They may have to put a portion of the stormwater underground to eliminate the stormwater management issue. More importantly since 2004 when the Federal Storm Water Regulations came into play, they want to see the water treated first. They want the water quality element taken care of. In order to do that, they encourage the water to be infiltrated naturally for water quality purposes. They would prefer the water be treated using a biorention areas or natural vegetation infiltration. As he referred to the layout, there was not enough area to do that. He mentioned that the large green space around the building is where they could actually infiltrate the run-off on the roof. By allowing them to push the building back and requesting the variance, they could create a larger area in front for the parking lot and to intercept the water to meet the water quality aspect a lot better. They now have to utilize a non-structural "Best Management" practices. The County Soil Conservation District would like to see them use the natural.

Colonel Ericson questioned whether it was the basis for the exceptional practical difficulty or hardship? Mr. Fusco replied yes, that was part of it.

Chairman Sheth questioned whether it was very expensive. Mr. Fusco replied the mechanical devices are very expensive and there is a maintenance issue throughout the year with the duration of the useful life.

Colonel Ericson questioned an estimated cost. Mr. Fusco replied that a typical mechanical device for a site of this size is $20,000-$30,000 just to purchase along with the annual maintenance cost.

Mr. Medved stated that as this was going on he mentioned to the engineer why the building could not be put on the back end (of the property) because the neighbors would like it much better. As they continued to discuss the soil issue and upon looking into more detail, they found they would not have to worry about the setbacks on the left side and at that point it was feasible. Another issue that was discussed was the original site plan was that the parking lot in the back would have a large 6ft. fence. The owners to the left also wanted a fence on the side. The enclosed parking lot would not be good for Staff. They also discussed having a lighting along the fence line in the rear and the outcome. After the discussion with engineer and neighbors, he thought that this would be a much better plan not only for him, but also for the neighbors. The neighbors were also in agreement.

Mr. Senato questioned the footage (distance) as he referred to the plan. Mr. Fusco replied roughly 40 feet. He stated that there was a large pole barn on the other side that is roughly 15 feet away from their property line. In supporting the variance as mentioned by Mr. Medved, in the old design the parking lot was going to be in the back location under the ordinance requirement (Site Plan requirement) Then there is the lighting and fencing where lighting is the issue because the fence is already there. There are a lot of established trees on the site that will be replaced with landscaping. Again, if the parking lot is placed in the rear it is more impacted; one of the residents that has a garage which acts as a buffer. He honestly believes this approach is much less impactful. Mr. Fusco stated that he has been doing this for 35 years.

Mr. Hufnal commented that this concept makes a lot more sense than the other one, especially with the way the applicant has planned on the discharge of the stormwater and using the natural way instead of the infiltration system. The cost would be more of a hardship for the applicant to go back the other way.

Mr. Keller commented on one of the neighbors Mr. Russum that testified at the first hearing for the property. He noted that Mr. Russum raised an objection and yet every comment he made seemed to be in favor of the project. Mr. Russum stated that the trees along the back area needed to be cut down.

Mr. Keller questioned Exhibit F Sketch A. Mr. Fusco replied that Exhibit F Sketch A represented a much narrower grass area. Mr. Keller also questioned whether the two (2) look like a circle area in green are the water pond. He also referred to Exhibit E large plan sheet which is the preferable design. Mr. Fusco replied that the Exhibits meets the County Soil Conservation District requirements more closely.

Chairman Sheth opened the public hearing.

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. Keller noted that in the Staff Report bullet item #2 relates by stating "Improvements to the property are subject to Site Development Plan approval processes through the Planning Commission." With the first go round with the property, it was also noted that subsequent approval even for tree removal would be overseen by the ultimate submissions to the Planning Commission. As Mr. Diaz points out in the Report those various permit items would still have to go forward if approval is gained by the Board for the variance request.

Mr. Keller moved to approve application V-17-11 variance request to allow the decrease in the minimum required rear setback from 30 feet to 20 feet; this motion is fully supported by the Staff Report and Recommendations, testimonies and Exhibits provided by the applicant. The motion was seconded by Mr. Senato and was unanimously carried 5-0.

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

Meeting adjourned at 10:19 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary