CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
January 17, 2018

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, January 17, 2018 at 9:07 A.M. with Vice Chairman Ericson presiding. Members present were Vice Chairman Ericson, Mr. Keller, Mr. Hufnal and Mr. Senato. Chairman K.C. Sheth was absent.

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

APPROVAL OF AGENDA

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

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

Mr. Hufnal moved to approve the meeting minutes of November 15, 2017 with any necessary corrections. The motion was seconded by Mr. Senato and unanimously carried 4-0. Chairman Sheth was absent.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF DECEMBER 20, 2017

Mr. Keller moved to approve the meeting minutes of December 20, 2017 with any necessary corrections. The motion was seconded by Mr. Hufnal and unanimously carried 4-0. Chairman Sheth was absent.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATION

Mr. Dave Hugg, Planning Director of Planning and Inspections stated that the meeting today will be conducted in accordance with the motion of the Agenda. There is one (1) application on the agenda under Old 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-17-17.
299 College Road. Stephen E. Lumor has requested a variance from the requirements of the

Zoning Ordinance, Article 4 §4.8 pertaining to maximum lot coverage for multiplex dwellings in the RM-2 (Medium Density Residence) Zone. Specifically, the applicant seeks to increase the maximum lot coverage on the site from 35% to 40%. The site is located on the north side of College Road west of Mishoe Street, and adjacent to Conwell Street. It is 0.42 acres +/- in size and zoned RM-2 (Medium Density Residence Zone). Tax Parcel: ED-05-067.00-02-26.00-000. The owner of record is Stephen E. Lumor.

Exhibits for the Record: Staff Report, zoning exhibit, and statement and plans submitted by the applicant. Legal Notice was published in the Delaware State News on January 7, 2018. The public was notified in accordance with regulations.

Mr. Diaz gave a brief overview of the application.

Mr. Hufnal commented on the Memo of January 9, 2018 with the background information of the Variance Application and Code requirements for multiplexes. At the last meeting, there were a lot of comments regarding what "multiplexes" meant and what it covered. This memo was very helpful in clearing up the questions. Mr. Hufnal and Vice Chairman Ericson thanked Mr. Diaz for preparing the Memo which would add a lot to allow the Board to make the proper decision.

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

Representative: Mr. Mark Strickland PE, Century Engineering

Mr. Strickland was sworn in by Mr. Rodriguez.

Mr. Strickland testified that Mr. Diaz gave a very thorough explanation of the research and findings. They did look into the parcel history and found that was originally described as two (2) lots in the 1899 College Settlement subdivision that was never developed. Looking at the historical area imagery, you can tell that between 1956 and 1961 there was a house constructed on the property that looks to be centered between what would have been Lots 145-146 indicating that at that time the lots were already consolidated. At this point in time the reference to the two (2) Lots on the deed is simply a reference to describe the boundaries of the property as it was originally delineated by the two (2) Lots in the subdivision. It is no longer two (2) Lots; again it is just using those two (2) Lots as reference to describe the boundaries of the property. The owner of the parcel is Steven Lumor and not Enyam LLC as it was originally stated in the plans. The plans have been amended to reflect the correction. All documentation going forward should reference Steven Lumor as the owner of the property. Upon research the only restriction on the property is the DelDOT right-of-way and permanent easement that is dedicated along College Road.

Mr. Hufnal questioned if the reason mainly for the variance was because of the restrictions that DelDOT put on the entrance to provide for the extra space, curbing and also the part required for the parking lot and that it had nothing to do with the housing itself. Mr. Strickland replied that is correct. They had the house designed to be slightly under 35% impervious originally and then during the planning process they had a recommendation from DelDOT to widen the entrance by

4- feet. From the Fire Marshal, they did not have to delineate a fire lane, but to expand the width of the area behind the parking spaces so that emergency vehicles could access the site. They made those two (2) improvements to expand the area of imperviousness to help DelDOT and the Fire Marshal access the site and that is what put them over the 35%.

Mr. Keller questioned the consolidation and the one lot that is in effect, and if there were any legal actions that changed the original subdivision plan (as there are still Lots 145 and 146). Mr. Strickland replied that they did not have any record plan of consolidation of the two (2) parcels other than them being described as one (1) parcel on the current deed. Describing the parcel using those two Lots is as a reference to the boundaries, not actually that it is two (2) Lots.

Mr. Keller commented that he agreed with the statement and in fact the deed of transfer from the City of Dover to Stephen E. Lumor cites the two (2) Lots (parcel of land, etc.).

Mr. Keller asked Mr. Diaz with the City's Recommendation for Approval of the application whether the City's position was still in favor of specific language in any motion for approval that the Site shall hereby be declared as a multiplex use only. Mr. Diaz replied that the City's Recommendation would be that the decision include the language stating that the variance would only be granted if a multiplex were constructed on the Lot. If it was a different kind of residential use, then the restrictions should remain as is in the *Zoning Ordinance*.

Mr. Keller asked in so doing, is he correct in thinking that thereby this multiplex is constructed and five (5) years from now burns to the ground, the land is sold to some other entity, any reconstruction would still have to comply with the multiplex increase in the density which we are talking about from 35 to 40 percent.

Mr. Diaz replied that if the new owner five years later wanted to build another multiplex then they could use the variance that is granted today (if granted). If they were to build something else they would not be able to. The reason for the recommendation is that there is a demonstrated need with this project for an increase in lot coverage, but the City does not believe that the increase would automatically be needed with a single family or townhouse use.

Vice Chairman Ericson opened the public hearing.

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

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

Mr. Hufnal moved to approve variance application V-17-17 based on the new information received today, Staff comments, and Staff recommendations that the variance apply only to the use of the property as a multiplex. The motion was seconded by Mr. Senato. Motion carries 4-0. Chairman Sheth was absent.

Mr. Senato thanked Mr. Diaz for his diligence and expertise in bringing all the information that was needed to this meeting, and he commended him for the work that was well done. They all concurred.
Vice Chairman Ericson stated that the next meeting will be held on February 21, 2018. He asked if the members present would be able to attend the meeting as the Chairman will not be present.

Mr. Senato stated that he would be in Florida until March 11, 2018.

Vice Chairman Ericson stated that if anyone could not attend the meeting to please call the Planning Office so that the meeting can be canceled and rescheduled.

Mr. Keller stated that he has been summoned for Jury Duty, but he submitted a return to decline due to his age. He will contact Vice Chairman Ericson once he receives the decision.

Meeting adjourned at 9:39 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary