CITY OF DOVER BOARD OF ADJUSTMENT
AGENDA
Wednesday, May 18, 2016 at 9:00 AM

City Hall Council Chambers
15 Loockerman Plaza, Dover, Delaware

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES of April 20, 2016 Meeting

NEW BUSINESS

Applicant #V-16-04
131 Nob Hill Road. Wayne S. Lipscomb has requested a variance from the requirements of Zoning Ordinance Article 4 §4.1 pertaining to required off-street parking in the R-8 (One-Family Residence Zone) as it relates to *Zoning Ordinance* Article 6 §3.2 stipulating how areas for parking are computed. The Tax Parcel is ED-05-77.07-06-97.00-000. The owner of record is Wayne S. Lipscomb.

Applicant #V-16-05
385 Saulsbury Road. Family Dental Associates c/o Christoper A. Nacrelli has requested a variance from the requirements of Article 6 §3.1 and §3.11 of the *Zoning Ordinance* for parking as related to the maximum allowed parking for the proposed use. Subject property is zoned C-PO (Commercial and Professional Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). The Tax Parcel is ED-05-067.19-02-02.06-000. The owner of record is Christopher A. Nacrelli.

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
April 20, 2016

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, April 20, 2016 at 9:00 A.M. with Chairman Sheth presiding. Members present were Colonel Ericson, Mr. Senato, Chairman Sheth, and Mr. Hufnal. Mr. Keller was absent.

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

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the agenda with the deletion of V-16-03, seconded by Colonel Ericson and unanimously carried 4-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF FEBRUARY 17, 2016

Mr. Hufnal moved to approve the meeting minutes of February 17, 2016 with the necessary corrections, seconded by Chairman Sheth and unanimously carried 4-0.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATION

Revision Application V-16-01

Mrs. Townshend, Director of Planning and Community Development stated that the application is subject to public hearing. All public notice for the new application on the agenda today was completed in accordance with code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

Mrs. Townshend stated that the Board of Adjustment approved application V-16-01 on February 17, 2016 for 420 W. Reed Street, 105 S. Kirkwood Street, and 107 S. Kirkwood Street. The applicant had worked closely with the City Manager and the Planning Office while putting together the concept plan with alley access. During the Development Advisory Committee process, a lot of issues were exacerbated by the presence of the alley. The Public Works Department had concerns about the alley as it related to the width and ability to provide trash pickup in the rear. The Fire Marshal had issues regarding access, and another general concern was that the construction of an alley would significantly increase the run off, creating another set of challenges in meeting the State storm water regulations.

During the Development Advisory Committee meeting it was determined that the layout had issues, therefore all agencies met later to discuss ways to resolve them. It was decided that the best way to provide service delivery, management of storm water, etc., was to have driveways from the front and to not have an alley in the rear. One of the requirements that was made through the DAC process was to have trash enclosures so that there would be no issues with trash containers being unsightly in front of the buildings. It so happened that the applicant overhauled his plan based on the comments from the regulatory agencies. The application as a Conditional Use went before the Planning Commission knowing that if the Planning

Commission approved the application it would have to come back before the Board of Adjustment to amend the Variance application for the rear setback. Even during the massive change after working with Staff on the front end, the applicant has been extremely cooperative.

The applicant was informed that since the changes being requested were based on the regulatory comments at the City's initiation, the City would handle it from that perspective. The owner of record is MauTiste Investment Group c/o Michael Maupin. Exhibits for the Record: Staff memorandum and associated plans. Legal Notice was published in the Delaware State News on April 10, 2016. The public was notified in accordance with regulations.

NEW BUSINESS

Revised Application #V-16-01

This is a request by Staff for revisions to application V-16-01.

420 W. Reed Street, 105 S. Kirkwood Street, 107 S. Kirkwood Street. The City Planner has requested modification of variances from the requirements of *Zoning Ordinance* Article 4 §4.2 previously approved by the Board of Adjustment at its meeting of February 17, 2016 pertaining to the minimum lot dimensions, minimum setbacks, and maximum lot coverage for duplex/one-family semi-detached dwellings in the RG-1 zone. In consultation with other city departments, modifications were made to the site design layout. The Tax Parcels are ED-05-076.12-02-65.00-000, ED-05-076.12-02-64.00-000, ED-05-076.12-02-63.00-000. The owner of record is MauTiste Investment Group.

Mr. Bill Cook gave a brief overview of the specifics of the revised variance application, memorandum and associated plan.

Responding to Mr. Hufnal's question whether Table 2 had lesser variance request than Table 1 overall, Mr. Cook stated yes, that would be correct.

Mr. Senato commented that the finished product in Exhibit B became more gradual with the decks in the rear and parking in the front which is a better situation.

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

Chairman Sheth opened the public hearing.

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

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

Mr. Hufnal moved to approve the revised application V-16-01 with the acceptance of Exhibit B and Table 2 which is a lesser variation than the first application and also based on the comments given by Staff with the requested variance changes, second by Colonel Ericson and unanimously

carried 4-0. Mr. Keller was absent.

Chairman Sheth announced that the next meeting will be held on May 18, 2016.

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

Meeting adjourned at 9:18 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary

City of Dover

Board of Adjustment

May 18, 2016

V-16-04

Location:	131 Nob Hill Rd
Applicant:	Wayne S. Lipscomb
Owner:	Wayne S. Lipscomb
Tax Parcel:	ED-05-77.07-06-97.00-000
Application Date:	April 15, 2016
Present Zoning:	R-8 (One-Family Residence Zone)
Present Use:	One-Family Residence
Reviewed By:	Bill Cook
Variance Type:	Area Variance

Variance Requested: To allow the requirement for two (2) off-street parking spaces to be met by eliminating the limitation on the driveway within a front yard setback being counted as only one space when calculating required parking for one-family residences.

Project Description

The applicant is requesting a variance from the *Zoning Ordinance* requirements of Article 6 §3.2, which specifies how areas for parking can be used in calculating the minimum parking space requirements stipulated in Article 4 §4.1 for one-family residences in the R-8 (One-Family Residence Zone).

Background

The subject property previously served as a model home for Clearview Meadow. As it was a model home and not approved for permanent occupancy, there was no certificate of occupancy issued for the structure. As the development transitioned, the home was eventually sold to the applicant. The applicant was not aware that a Certificate of Occupancy had not been issued. In reviewing old permits the lack of Certificate of Occupancy was discovered by Department of Planning and Inspections staff. Upon further review, staff determined that the conversion of the garage area to living space (when the home was a model) created a non-compliance with the requirements of *Zoning Ordinance*, Article 6, §3.2.

Adjacent Land Uses

Refer to the Zoning Map (Exhibit A). The property is located on Nob Hill Road in the subdivision known as Clearview Meadow, located north of South Little Creek Road and accessed by John Hunn Brown Boulevard.

The immediate surroundings are residential. The north side of Nob Hill Road, including the subject property, is zoned R-8. South of Nob Hill Road is zoned RM-1 (Medium Density Residence Zone) and has attached dwellings (townhouses). Property approximately one block to the west is zoned RG-2 (General Residence Zone) and is occupied by Luther Village a senior apartment complex.

Code Citation

Zoning Ordinance Article 4 §4.1 "Zoning Bulk and Parking Regulations" for the R-8 zone requires two (2) off-street parking spaces per dwelling unit.

Zoning Ordinance Article 6 §3.2 "Off-Street Parking, Driveways and Loading Facilities" states:

Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport, or other area available for parking, other than a street or driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space, other than a corner lot as provided in article 5, section 1.3.

Refer to Exhibit B showing a property survey with the front driveway shown. The driveway measures approximately 18 feet wide with a length of approximately 26 feet from the sidewalk to the front wall of the structure where a garage door would normally be. A photo (Exhibit C) also shows the front façade of the house and driveway.

Also note on the property survey that the front wall of the structure is just behind the required front yard, delineated by the line labeled "25' B.R.L.", which is the "building restriction line" or "setback." Therefore, the front driveway is almost entirely within the required front yard.

The minimum size of parking spaces is 9' x 18', therefore while it is physically possible to park two (2) vehicles side-by-side in the front driveway, the ordinance counts the driveway as only one (1) space towards the two (2) spaces required. There is no alley or access that would allow the ability to park in the rear yard.

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 three 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 Responses:
   No direct response, see staff response.

Staff Response:
Responses directly to the criteria were not made by the applicant's representative, instead a document explaining the "History and Justification" for the variance was provided and included as Exhibit D.

The nature of the R-8 zone is limited to one-family detached residential dwellings and limited accessory and conditional uses.

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

Applicant Responses:
No direct response, see staff response.

Staff Response:
As described in the "Adjacent Land Uses" previously, the surrounding area is residential, but of various housing types. The Clearview Meadow subdivision is accessed primarily from South Little Creek Road via John Hunn Brown Boulevard or Babb Drive. The subdivision is less than 50% complete and there are many unbuilt lots located in the vicinity.

One-family dwellings are found on the same side of the street as the subject property, with zoning for additional one-family dwellings throughout the northern portion of the subdivision. Across the street from the subject property are townhouses. Approximately one block to the west are senior apartments located west of Babb Drive.

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

Applicant Responses:
No direct response, see staff response.

Staff Response:
The condition has existed since the house was constructed. The comments submitted by the applicant (Exhibit D, see III, 5.) indicate that there have been no previous complaints or concerns about either the appearance of the property or the parking provisions in the five years since construction.

Staff has not performed a detailed parking survey, but notes that satellite photos show some on-street parking usage on the south side of Nob Hill Road. This segment of the street is fronted with townhouses, but the full length of the block has on-street curbside parking available because there are no curb cuts since the off-street townhouse parking is accessed by alleys to the rear of the townhouses.

While there may be increasing demand for on-street parking as the subdivision builds out, or at certain times, staff sees no unique impacts that this property would impose upon the neighboring properties or uses.

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:
   No direct response, see staff response.

   Staff Response:
   The comments submitted by the applicant (Exhibit D, see III, 3. thru 8.) explain that the house was sold with the existing condition of the garage space having been finished and converted to living space, and that there was no indication to the buyer of any violation or non-compliance at the time of sale. If the variance were not granted and there was a requirement to comply with the *Zoning Ordinance* provisions related to parking, the owner would incur the expense of converting the space to a garage and would experience a loss of living space for which he sought and paid for. The owner purchased the house based on physical alterations to it that he perceived to have value as "improvements," and a requirement to remove such improvements would result in undue hardship.

Variance Recommendation:

Staff recommends granting of the variance in order to permit the existing driveway within the front yard setback to be counted as sufficient for meeting the requirement for two (2) off-street parking spaces.

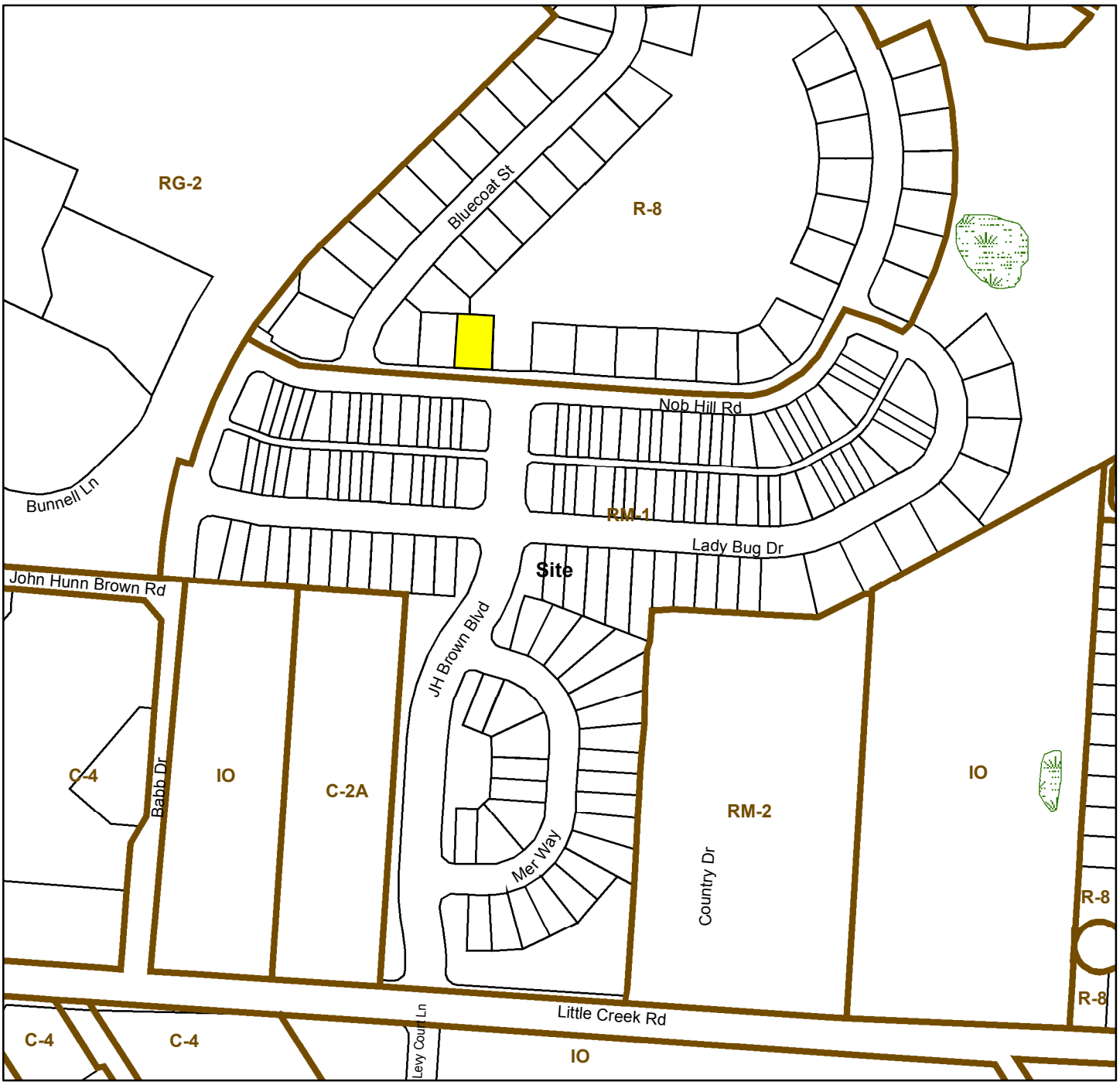
GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Property Survey (Applicant)	1
C	Photo of front façade and driveway (Applicant)	1
D	Request for Variance -History and Justification (Applicant)	2

City of Dover

Department of Planning & Inspections

Application No.: V-16-04



Title: Lands of Wayne S. Lipscomb
Address: 131 Nob Hill Road
Parcel ID: ED-05-77.07-06-97.00-000
Zoning: R-8 (One Family Residence Zone)
Owner: Wayne S. Lipscomb
Date: 5/09/2016

Legend

- Subject Property
- Dover Parcels
- Zoning
- Wetland Areas

N
W
E
S

0 175 350 700 Feet

SITE DATA

TAX PARCEL:
2-05-07707-06-9700-000
CLEARVIEW MEADOW SUBDIVISION
LOT 184

ADDRESS:
131 NOB HIL ROAD
DOVER, DE 19901

AREA:
0.180 ACRE

DEED REFERENCE:
DEED BOOK 5869 PAGE 251
PLOT BOOK 80 PAGE 46

CURRENT OWNER:
MARYLAND ABSTRACTS, LLC.

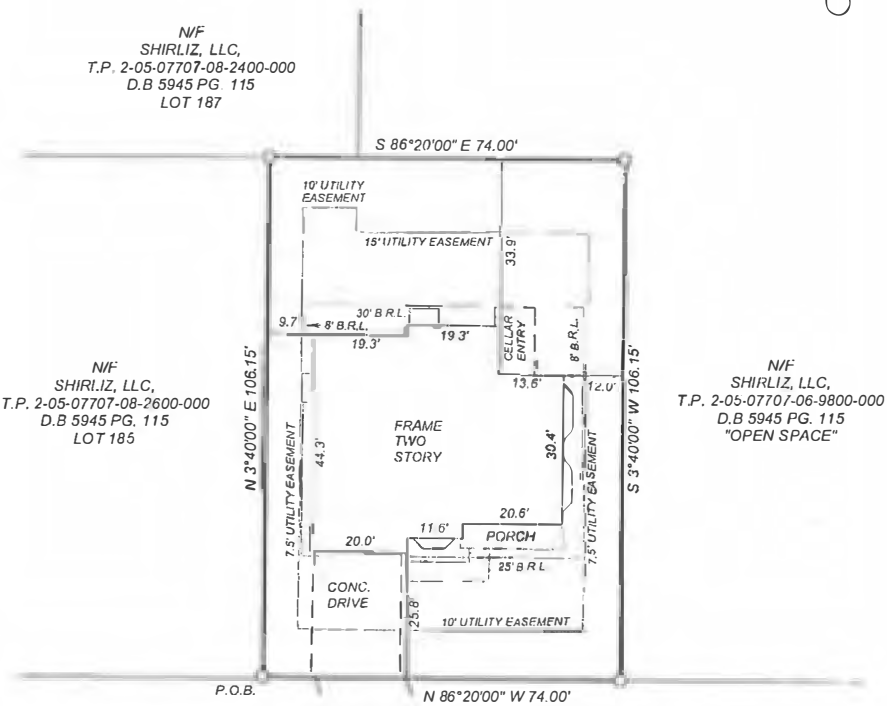
SURVEY CLASS:
THIS SURVEY MEETS OR EXCEEDS THE REQUIREMENTS FOR A SUBURBAN SURVEY.

TITLE NOTE:
THIS MAP WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, WHICH MAY SHOW ADDITIONAL CONVEYANCES, EASEMENTS, COVENANTS, RIGHTS-OF-WAYS OR MORE STRINGENT BUILDING RESTRICTION LINES THAN THOSE SHOWN HEREON. NO RECORDED RIGHTS-OF-WAY OR EASEMENTS WERE PROVIDED BY OTHERS FOR THE PREPARATION OF THIS SURVEY.

TIES FROM THE P.O.C. TO THE P.O.B., P.O.C. BEING THE EASTERLY END OF A 25' RADIUS JUNCTION CURVE AT THE INTERSECTION OF THE EASTERLY R.O.W. OF BLUECOAT STREET (60' R.O.W.) WITH THE NORTHERLY R.O.W OF NOB HILL ROAD (60' R.O.W.), THENCE ALONG THE NORTHERLY R.O.W OF NOB HILL ROAD, THE FOLLOWING COURSE AND DISTANCE:

1. S 86° 20' 00" E 139.97' TO THE POINT OF BEGINNING





NOB HILL ROAD

(60' WIDE R.O.W.)

LEGEND

O REBAR & CAP SET

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE SURVEY SHOWN HEREON IS CORRECT. THAT IT IS A SURVEY OF A PORTION OF THE LANDS CONVEYED BY FIRST DEVELOPMENT GROUP, LLC, TO MARYLAND ABSTRACTS, LLC, BY DEED RECORDED JULY 14, 2011 AMONG THE LAND RECORDS OF KENT COUNTY, DELAWARE IN DEED BOOK 5869 PAGE 251.

BOUNDARY SURVEY PLAN
FOR

WAYNE S. LIPSCOMB

CITY OF DOVER
EAST DOVER HUNDRED
KENT COUNTY, DELAWARE

PREPARED FOR: HUDSON, JONES, JAYWORK & FISHER, LLC

DONALD G. GROWER, PLS, INC.
PROFESSIONAL LAND SURVEYING SERVICES

57C SAULSBURY ROAD, DOVER, DE 19904
TEL. 302-526-2495 CEL. 302-632-1979
EMAIL: dgrower@comcast.net
Mailing Address: 533 Carol Street, Dover, DE 19904

DATE: 12/19/2013 JOB NO.: 729-2013

SCALE: 1"=30' DRAWN BY: DGG

SHEET NO.: 1 OF 1

COPYRIGHT 2013 DONALD G. GROWER, PLS NO. 0734

Applicant Wayne S Lipscomb, owner

131 Nob Hill Road, Dover DE

Applicant for off street ordinance to allow both off street parking spaces to be exterior



WAYNE S. LIPSCOMB - Owner and Applicant
131 Nob Hill Road, Dover, Delaware

REQUEST FOR VARIANCE
History and Justification

I. Code requirement regarding parking: two (2) off street parking spaces with only one (1) exterior parking space.

II. Variance Request: Allow two (2) off street parking requirement to be met by two (2) off street exterior parking spaces (eliminating the requirement for one to be interior the residence.

III. History of Property/Justification for Variance:

1. First Development Group, LLC created the development in which the subject property and house are located; built the house on the property; and utilized the house as a model home with the garage being not as a garage, but as a sales office with two exterior doors and one window instead of garage doors (see enclosed picture of front of subject house depicting same).

2. First Development Group, with Bankruptcy Court authorization and direction, sold the house to Maryland Abstracts, LLC.

3. Maryland Abstracts, LLC held the house for an additional two years and apparently, without knowledge of any requirement to convert the garage into a normal garage, did then sell the property to Applicant.

a. The Contract of Sale to Applicant required repairs, mold remediation and the like, thus in no way appearing to be new construction, but rather appearing to be the sale of a "used" house—alerting no one to question the existence or absence of a Certificate of Occupancy.

4. As can be seen in the enclosed photo of the front of the house, the front of the garage area being stone construction (the same as the balance of most of the front of the house) in no way would alert anyone to even suspect a need to tear off the front of the garage and convert it to a true garage, to create interior off street parking. Certainly Applicant had no knowledge of same whatsoever, and in part purchased the house because of the attractive exterior and the additional living space.

5. The subject property and house is obviously compatible with the neighborhood; has so appeared for over five (5) years since its construction; and there have been no complaints from neighbors regarding the appearance of the exterior of the house and garage, nor the absence of an interior off street parking space, neither to Applicant nor the City of Dover during the entire time since it has been built (in excess of five years).

a. The problem only came to the City of Dover's attention when the City was processing older records of building permits versus Certificates of Occupancy (i.e. it came to light administratively five years later—not by complaint, but by normal record processing).

6. Applicant in no way contributed to the violation in question; as with many families has limited income and a mortgage; and is not able to pay the significant cost of converting the area in question to a garage—not to mention said space being an attraction in purchasing that Applicant honestly thought Applicant was buying.

7. As can be seen from the enclosed photos, there is adequate paved parking area to accommodate the two off street parking spaces that the City Code otherwise requires.

8. Given the total innocence of Applicant in creating the current parking space violation; given the absence of any complaint in the over five years the house has appeared as it now does; and given all of the above facts and circumstances, not to grant the variance requested by Applicant will result in an exceptional hardship to the Applicant.

City of Dover

Board of Adjustment

May 18, 2016

V-16-05

Location:	385 Saulsbury Road
Applicant:	Troy Adams, Mountain Consulting
Owner:	Christopher A. Nacrelli
Tax Parcel:	ED-05-067.19-02-02.06-000
Application Date:	April 19, 2016
Present Zoning:	C-PO (Commercial and Professional Office Zone)
Present Use:	Dental Office
Reviewed By:	Bill Cook
Variance Type:	Area Variance

Variance Requested: To allow an increase to exceed the maximum parking spaces permitted for medical offices.

Project Description

The applicant is requesting a variance from the *Zoning Ordinance* requirements of Article 6 §3.1 and §3.11 for parking as related to the maximum allowed number of parking spaces for the use as medical offices. The applicant proposes to expand an existing parking lot to add four (4) additional parking spaces, bringing the total parking spaces to 24.

Background

At some time in the winter crushed stone was put down by a contractor on the site adjacent to the existing parking area, and a code violation was issued (case #16-00000310). While a Building Permit for the parking lot improvement was subsequently applied for (#16-246), it could not be issued because the surface is not a "hard paved dust-free surface" as required by the *Zoning Ordinance*.

Because of the proposed increase in impervious surface area, an Administrative Site Plan application must be submitted, and the parking area must be constructed in accordance with the requirements for parking areas with regard to dimensions of spaces, width of drive aisles, striping, and surface material.

The applicant is seeking a variance to allow an increase in the permitted parking spaces so that an Administrative Site Plan can be subsequently submitted and reviewed to bring the property into compliance.

Adjacent Land Uses

Refer to the Zoning Map (Exhibit A). The property is located on Saulsbury Road just south of the intersection with Walker Road. The area is a mix of residential, office, and retail/commercial uses. Immediately surrounding the subject property are other office buildings zoned C-PO (Commercial and Professional Office Zone), and the vacant property across Saulsbury Road is also zoned C-PO.

Diagonally across the intersection is the Hamlet Shopping Center, zoned SC-1 (Neighborhood Shopping Center Zone). Properties on the north side of Walker Road east of the intersection and the east side of Saulsbury Road are zoned R-7 (One Family Residence Zone) and are occupied by houses.

This property and surrounding properties are within the COZ-1 (Corridor Overlay Zone). This overlay zone includes additional provisions related to building design, landscaping, and parking layout, however the COZ-1 is not pertinent to this application with regard to the requested parking variance.

Code Citation

The use as a dental office is considered a professional office and is permitted in the C-PO zone as outlined in *Zoning Ordinance* Article 3 §26.1(a).

The “Zoning Bulk and Parking Regulations” found in *Zoning Ordinance* Article 4 §4.14 for parking in the C-PO zoning district requires the greater of one (1) off-street parking space per 300 S.F. of floor area or one (1) parking space per employee. Calculations under the

provisions of *Zoning Ordinance* Article 6 §3.1 for "Medical Offices-All types" are the same as the zoning district regulations for parking.

Zoning Ordinance Article 6 §3.11 states that "the maximum number of parking spaces shall not exceed 25 percent over the number of parking spaces required by the code."

Table 1 shows a summary of the required, maximum, and requested parking provisions for the site under the existing and proposed scenarios for the site.

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 three 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 Responses:
   "The property is in a C-PO zone. The existing use as a dental office is permitted and is classified as a business/professional office."

   Staff Response:
   The C-PO zone permits business, professional or governmental offices, banks, medical laboratories, and drive-in facilities accessory to any permitted use. Certain

conditional uses are permitted when they are accessory to a permitted use on the same lot, as well as residential uses including multi-family and one-family residences.

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

   Applicant Responses:
   "The property is located on the east side of Saulsbury Road in close proximity to the southeast corner of Walker Road and Saulsbury Road. The property is bounded by vacant lands of the City of Dover on the North; lands of Steven Nemcic on the East; lands of National Council on Agriculture on the South; and Saulsbury Road on the West."

   Staff Response:
   The vacant land to the north is an approximately 40-foot wide strip of land along the Walker Road frontage owned by the City and designated as open space. The properties to the east and south are office uses and similar to the subject property, and of similar architectural style characterized by one-story structures with pitched roofs. Styles and materials are somewhat residential in character. The structures have yards with grass and asphalt paved parking lots behind them.

   To the north across Walker Road and along McKee Road are one-family residences. Diagonally to the northwest and across the intersection is a single-story shopping center. A vacant property, offices, and a day care center are found across Saulsbury Road and travelling south.

   The property is in character with the surroundings, which could be described as suburban mixed use with generous lawns and adjacent to a wide arterial street.

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

   Applicant Responses:
   "The subject property has no interconnectivity to any of the adjacent commercial properties. The additional 4 spaces requested will not have an effect on neighboring properties and uses."

   Staff Response:
   Sole vehicular access to the property is from Saulsbury Road. The subject property has sufficient space to allow for additional parking on site, and the proposed placement of the parking does is not regulated by provisions of the COZ-1 (Corridor Overlay Zone). The additional parking would not impact adjacent properties, and would reduce the likelihood of visitors of the subject property seeking parking on adjacent properties.

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:
   "Parking facilities are very important for both staff and patients. Convenient parking can have a favorable influence on patients' perceptions of a dental office. Dental offices typically require more parking spaces due to the frequency of appointments throughout the day. The peak period is from 10am to 2pm. Four (4) employees consistently park in the gravel area to accommodate the patients. There are times that patients have to park at the adjacent parking lot to the south. The rule of thumb for determining the number of parking spaces needed for a dental office is to multiply the number of treatment rooms by 1.5 and add in the number of staff parking spaces. There are eight (8) treatment rooms, one (1) x-ray room, and 12 staff members for a total requirement of 24 parking spaces. A parking count less than 24 spaces will not allow the business to operate efficiently nor meet the demand of patient traffic. This could negatively impact the long term sustainability of the practice."

   Staff Response:
   Staff concurs with the applicant's statement of the necessity of parking due to the volume of patients, number of staff, frequency of appointments and patient turnover. A dental office functions in an intense and efficient space whereby the demands for floor area within the structure do not align with the traditional parking requirement calculation which is based on floor area.

   The space demands of a dental office may be different than other medical offices. The *Zoning Ordinance* makes no distinction between medical specialties or the operational characteristics of different practices, thus the conventional calculation method for parking based on building square footage may insufficient compared to actual parking demand. Staff, the Board of Adjustment, and the Planning Commission have all recognized the need to revisit parking regulations for certain uses.

Variance Recommendation
Staff recommends approval of the variance for the increase in parking to a total of 24 spaces for reasons as follows:

- The proposed variance would not be out of character for the zone and the surrounding uses.
- The parking proposed by the applicant is reasonable considering the demands of the business as stated. The Zoning Ordinance does not differentiate between dental offices and other types of medical or professional offices.

While a variance request must demonstrate uniqueness and exceptional practical difficulty associated with a specific property, and for these reasons past decisions are not necessarily precedential, staff notes similarities with application V-14-11, Lands of Dover Family Properties, LLC at 1084-1086 South State Street, approved by the Board of Adjustment at its meeting of October 15, 2014.

The Board unanimously approved a variance to increase the parking for a smaller (2,730 SF) dental office with the same number of employees (12). The code requirement for that property was minimum 10 spaces, maximum 13 spaces, with 23 total parking spaces requested by the applicant and approved by the Board.

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 Administrative Site Development Plan approval processes and appropriate permits from the City of Dover Department of Planning & Inspections and other agencies.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
B	Administrative Site Plan, *proposed* (Applicant)	1 (11" x 17")

City of Dover

Department of Planning & Inspections

Application No.: V-16-05



Title: Lands of Family Dental Associates
Address: 385 Saulsbury Rd
Parcel ID: ED-05-067.19-02-02.06-000
Zoning: C-PO, Commercial and Professional Office Zone
COZ-1, Corridor Overlay Zone
Owner: Christopher A. Nacrelli
Date: 5/09/2016

Legend

- Subject Property
- Dover Parcels
- Zoning
- Corridor Overlay Zone

N W E S

0 175 350 700 Feet

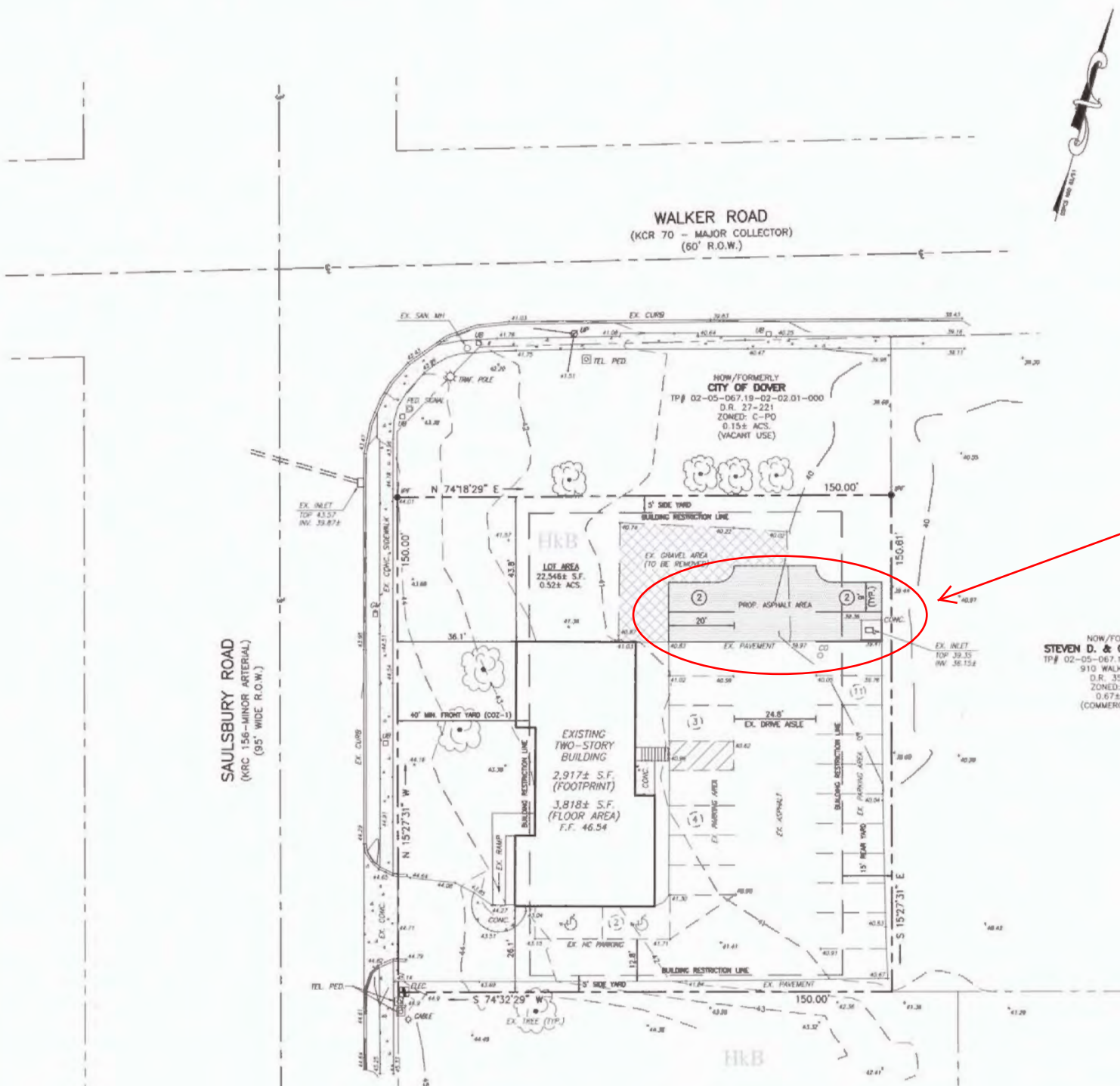
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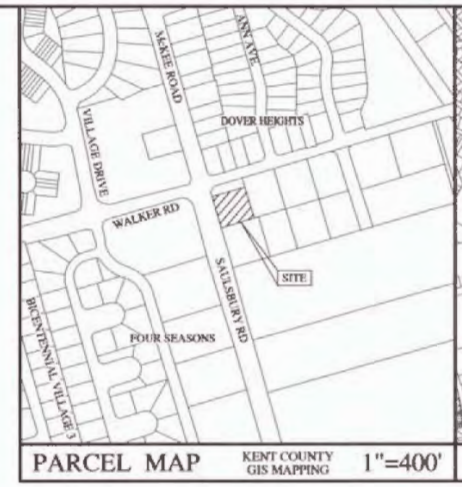
1. TAX PARCEL NUMBER: ED-05-067.19-02-02.06-000
2. SITE ADDRESS:
   385 SAULSBURY ROAD
   DOVER, DE 19904
3. OWNER ADDRESS:
   CHRISTOPHER A. NACRELLI
   385 SAULSBURY ROAD
   DOVER, DE 19904
4. ENGINEER OF RECORD:
   TROY L. ADAMS, P.E.
   MOUNTAIN CONSULTING, INC.
   103 S. BRADFORD STREET
   DOVER, DE 19904
   302-744-9875
5. EXISTING ZONING: C-PO, CO2-1
6. USE OF PROPERTY: EXISTING: DENTAL OFFICE
   PROPOSED: DENTAL OFFICE
7. GROSS AREA: 22,546± S.F. (0.52± ACS.)
8. BUILDINGS: GROSS FLOOR AREA: 3,818± S.F.
9. IMPERVIOUS COVER: EXISTING: 13,800± S.F. 0.32± ACS 61.21%
   PROPOSED: 13,265± S.F. 0.30± ACS 58.84%
10. PARKING DATA:
    TYPICAL PARKING SPACES SHALL MEASURE 9' X 20'
    PROPOSED USE: DENTAL OFFICE
    PARKING SPACES REQUIRED: 13 SPACES
    PARKING SPACES PROVIDED: 20 SPACES EXISTING
    4 SPACES PROPOSED
11. LOADING SPACES: NONE REQUIRED
12. SITE SOILS: HkB, HAMBROOK URBAN LAND, 0 TO 5 PERCENT SLOPES
    HSG B, VERY LOW SURFACE RUNOFF
13. SURVEY DATUM: VERTICAL: NAVD 88
    HORIZONTAL: DELAWARE STATE PLANE (NAD83)
14. DEED RECORD: D 0459 0097 T 0037 0276
15. PERMANENT CORNERS: 2 IRON PIPES FOUND
16. FLOOR AREA RATIO: 0.17
17. THIS PROPERTY IS NOT AFFECTED BY THE FLOODPLAIN AS SHOWN ON MAP NUMBER 10001C0168H, EFFECTIVE DATE MAY 5, 2003.
18. THIS PROPERTY IS NOT AFFECTED BY WETLANDS, STREAMS OR FOREST.

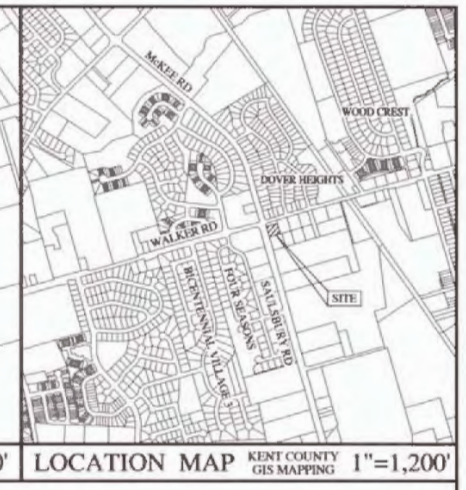
BULK STANDARDS

EXISTING ZONING: C-PO
BULK AREA RESTRICTIONS

MIN. LOT AREA:	5,000 S.F.
MIN. LOT WIDTH:	50 FT
MIN. LOT DEPTH:	100 FT
MIN. FRONT YARD:	40' MIN. – 50' MAX. (CO2-1)
MIN. SIDE YARD:	5 FT
MIN. REAR YARD:	15 FT
MIN. 25' SIDE/REAR YARD ADJ. TO RESIDENTIAL USES OR DISTRICTS	
OFF STREET PARKING:	1 PER 300 S.F. OF FLOOR AREA OR 1 PER EMPLOYEE (WHICHEVER IS GREATER)
MAX. BUILDING HEIGHT:	45' (3 STORIES)
FLOOR AREA RATIO:	2.0
LOT COVERAGE:	75%







LEGEND

- PROPERTY LINES
- ADJOINING PROPERTY LINES
- CENTER LINE
- EXISTING SANITARY SEWER & MANHOLE
- EXISTING CATCH BASIN & STORM SEWER
- EXISTING CURB
- LOD — LIMIT OF DISTURBANCE
- EXISTING 1 FOOT CONTOUR
- 75 — EXISTING 5 FOOT CONTOUR
- 39.80 EXISTING SPOT ELEVATION
- IRON PIPE FOUND
- EXISTING UTILITY POLE
- EXISTING TELEPHONE PEDESTAL
- EXISTING TRAFFIC POLE
- EXISTING PEDESTRIAN SIGNAL
- EXISTING UTILITY BOX
- EXISTING GAS METER
- EXISTING ELECTRIC TRANSFORMER
- EXISTING CABLE BOX
- (2) EXISTING PARKING COUNT
- (2) PROPOSED PARKING COUNT
- EXISTING TREE/BUSH
- EXISTING BUILDING
- EXISTING CONCRETE/SIDEWALK
- PROPOSED ASPHALT AREA
- EX. GRAVEL AREA TO BE REMOVED
- SOIL DELINEATION LINE

THE PURPOSE OF THIS PLAN IS TO PROVIDE FOUR (4) ADDITIONAL PARKING SPACES FOR THE EXISTING DENTAL OFFICE USE LOCATED ON THE SUBJECT PARCEL.

ADMINISTRATIVE SITE PLAN
FOR
385 SAULSBURY ROAD
FAMILY DENTAL ASSOCIATES
EAST DOVER HUNDRED – KENT COUNTY
CITY OF DOVER – STATE OF DELAWARE

CERTIFICATION OF OWNERSHIP

I, CHRISTOPHER A. NACRELLI, HEREBY CERTIFY THAT THE OWNER OF RECORD DESIGNATED ABOVE IS THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, AND THAT THE PLAN WAS MADE AT THE DIRECTION OF THE OWNER, AND THAT I ACKNOWLEDGE THE SAME TO BE IT'S ACT AND DESIRE FOR THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

SIGNATURE — DATE 4-15-16

ENGINEER CERTIFICATION

I, TROY ADAMS, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL ENGINEER, IN THE STATE OF DELAWARE, AND THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF STATE OF DELAWARE.

TROY L. ADAMS P.E. LIC. NO. 12002 — DATE 4/15/16

THIS DRAWING DOES NOT INCLUDE NECESSARY COMPONENTS FOR CONSTRUCTION SAFETY.

ALL CONSTRUCTION MUST BE DONE IN COMPLIANCE WITH THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 AND THE RULES AND REGULATIONS THERETO APPURTENANT

REVISIONS	CHECKED BY:

mountain consulting
103 S. BRADFORD ST
DOVER, DE 19904
P.O. BOX 558
DOVER, DE 19903
T 302-744-9875
F 866-672-6428

GRAPHIC SCALE 0 10 20 40

SCALE: 1" = 20'		DRAWN BY:	FJS
DESIGNED BY:	CHECKED BY: TLA	DRAWING NAME:	SITE.DWG
DATE: 4-13-16	COMM. NO: 2016-025	FILE NO.	SHEET NO. 1 OF 1

TROY L. ADAMS LICENSE No. 12002 DELAWARE PROFESSIONAL ENGINEER

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