CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
December 16, 2015

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, December 16, 2015 at 9:03 A.M. with Chairman Sheth presiding. Members present were Chairman Sheth, Mr. Senato, Mr. Keller, Mr. Hufnal, and Colonel Ericson.

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

Mrs. Townshend introduced Mr. Eddie Diaz the new planner.

APPROVAL OF AGENDA

Mr.Hufnal moved to approve the agenda as submitted, seconded by Mr. Colonel Ericson and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF NOVEMBER 18, 2015

Mr. Keller moved to approve the meeting minutes of November 18, 2015 with the necessary corrections, seconded by Colonel Ericson and unanimously carried 5-0.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATION

Mrs. Townshend, Director of Planning and Community Development stated that the meeting would be conducted in accordance with the agenda. There is one item (new application) 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 adjourn 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 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.

NEW BUSINESS

Applicant #V-15-15

350 McKee Road. Grace Presbyterian Church has requested a variance from the requirements of Article 6 § 3.11 of the *Zoning Ordinance* pertaining to the maximum number of parking spaces permitted. Subject property is zoned IO (Institutional and Office Zone) and subject to the provisions of the COZ-1 (Corridor Overlay Zone). The Tax Parcel is ED-05-067.14-01-70.01-000. The owner of record is Grace Presbyterian Church, Inc.

Mr. Bill Cook Exhibits for the record: Staff Report and plans submitted by the applicant. The legal notice was published in the Delaware State News on December 6, 2015, and the public was

notified in accordance with the regulations.

Mr. Bill Cook 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.

Representative: Mr. Raymond Harbeson, Chairman of Grace Presbyterian Church Growth Committee

Mr. Raymond Harbeson was sworn in by Mr. Rodriguez.

Mr. Harbeson testified that the project was well described by Mr. Cook. Four years ago the committee was charged to come up with a Master Plan for the site for growth. By working with the City, State, and Kent Conservation District they were able to determine what kind of improvements could be done in the future. They decided to follow the Master Plan approach which allows them to put in the Master Plan and phase the construction projects. Because they are a church and not a developer all of the money will not be available at once because it has to be raised from the congregation. The first phase would be getting the site into compliance with current storm water regulations, landscaping, parking, open space requirements with the City, and access requirements from DelDOT.

Photo Presentation

The parking demand exceeds the required minimums under IO and COZ-1 Zoning. It is very hard to meet the current parking requirements as all of the members arrive at the same time. There are 116 paved parking spaces and on the gravel roughly 180 vehicles can park. There are roughly 172 available parking spaces. This is considered to be a typical Sunday in the fall, winter, and spring. It is less in the summer during vacations and more around Christmas and Easter. They have tried to keep as much green space on the site as possible. For long term planning they first contacted the owners of the office buildings next to them and secured an agreement to utilize their parking spaces for overflow situations. The church currently has 350 attendees on Sunday. They plan to wait on the final phase and keep it green for outdoor activities as long as possible. There are roughly 50 parking spaces on the adjacent office building lot. The owner has also given them permission to do a sidewalk to connect between properties.

Mr. Harbeson stated that there are also difficulties making the left turn onto McKee Road. Making a signalized left turn is much safer. They would also like to relocate the entrance driveway to allow room for building expansion in the future and bring the entire site into compliance with storm water regulations.

Responding to Mr. Keller's question whether the exit onto State College Road was a right exit only, Mr. Harbeson stated yes.

Responding to Mr. Keller's question whether the church had a number of different functions going on at once, Mr. Harbeson stated yes, but the photos were taken at the end of their first

service. Sometimes the service is projected into the gymnasium over flow area. At times there is an adult Sunday school, full Sunday school service and second worship service.

Colonel Ericson stated that it is unusual in most cities to see a maximum limit on parking spaces and asked if Mrs. Townshend could brief the applicant on how the regulation came about. Mrs. Townshend stated that maximum parking requirement was implemented when the city had development applications for shopping centers where retailers would dictate parking in the lease agreement. There were site plans with "big box" stores where the parking shown on the site plan was double than what the code required. For example there were cases with 1,000 spaces when only 500 spaces were required. The Planning Commission was concerned that while the city was required by the State to enact the Source Water Protection ordinance, the large expanses of impervious coverage remained vacant for most of the year. Therefore the maximum parking limit was put in place.

Some of the excess parking was not in line with the goals of the Comprehensive Plan, State Laws and Local Ordinances. It was also creating a situation where the character of any redevelopment along the highway included a lot of black top that would be vacant most of the time. By having a maximum parking requirement in the code, it took the pressure of potentially losing a key tenant off the Planning Commission if the parking requested by the applicant was not approved. It is stated in the code that it is incumbent on the applicant to demonstrate to the Board of Adjustment that it is not just a retailer demand, but an actual problem. As discussed in the past, with some variances on maximum parking there are some specific uses that need to be reevaluated such as restaurants, as well as land uses or sites that have small parking requirements. In the cases with small parking requirements, the maximum parking limit (25% over required parking) is not much. Also parking requirements calculated by seat count could use examination. Using seat count for restaurants and churches is manageable, but a seat count in a church where pews are used instead of chairs becomes challenging. It is not as easy to determine and the result usually calculates a parking requirement that is less than by calculating the floor area of the building.

Colonel Ericson stated that the church has exceeded their parking requirement and it would be worse in the future and their proposal seems like a reasonable request.

Responding to Chairman Sheth's question whether the entrance from College Road was across from the Woodlands of Fox Hall, Mrs. Townshend stated that it is further east than Fox Hall. It lines up with the liquor store and adjacent vacant property.

Mr. Hufnal stated that it opens to the vacant land south of Emerald Pointe.

Chairman Sheth stated that he wanted to be clear on the entrance location.

Mr. Harbeson stated that there is a small house that the church owns that has been incorporated into the site. In the future the driveway to the house will be eliminated and a new driveway for the parking will be constructed.

Responding to Mr. Keller's question whether the exit would come opposite of the shopping center, the Baxter McKee House and open field area, Mr. Harbeson stated not quite that far.

Responding to Mr. Keller's question whether the entrance was a considerable distance from the entrance of the Woodlands of Fox Hall, Mr. Harbeson stated yes.

Mrs. Townshend stated that you still have Hidden Oaks.

Responding to Chairman Sheth whether the entrance would remain open 24/7, Mr. Harbeson stated that it would remain open; the safety question is that it is more of an issue during the week or peak hours when McKee Road is backed up.

Responding to Chairman Sheth whether the entrance would be used as a short cut, Mrs. Townshend stated that it is a pretty long short cut. Mr. Harbeson stated that the entrance is not immediately visible because the building is tall.

Chairman Sheth stated that he raised the question regarding safety (dark area) from illegal activities in the area.

Responding to Mr. Hufnal's question whether the road will be exit only, Mr. Harbeson stated yes.

Responding to Mr. Senato's question whether the road heading east towards McKee Road was going to be eliminated, Mr. Harbeson stated no, it will continue to be the main entrance.

Responding to Mr. Senato's question whether travelers would be making a left and right turn from McKee Road together into the main entrance if there were heading away from Saulsbury Road, in other words the new road would be entrance and the old road would be the exit, Mr. Harbeson stated that it provides movement for the left out.

Responding to Mr. Senato's question that most of the traffic is on Sunday, Mr. Harbeson stated Sunday and Wednesday.

Responding to Mr. Senato's question whether the proposed parking spaces would be enough when the extra buildings and expansions are added in the future, one of the major items would be the building expansion (new sanctuary) with the maximum being 600 people. The applicant is only asking for 245 parking spaces because of current parking.

Responding to Mr. Senato's question whether additional handicap spaces would be added, Mr. Harbeson stated they would meet requirements.

Responding to Mr. Keller's question whether there was an overall anticipated completion date of Phases 1-5 and if it would expand to 1-3 years, Mr. Harbeson stated no. The Master Plan will be good for five (5) years and they will do as many phases as possible that they can afford during that timeframe. They would like to complete all of the site work first. The multipurpose room would most likely be the last phase.

Responding to Mr. Hufnal's question whether the timeframe to complete the work if the variance is granted is one (1) year, Mrs. Townshend stated that the applicant has one (1) year to initiate

the work done for the variance, but not to complete the entire project.

Mr. Hufnal stated that per the applicant the extra parking needed may not start for a period of time, Mrs. Townshend stated that as long as the applicant starts the project before a year they will be in compliance.

Responding to Mr. Hufnal's question whether the project start was for the parking or building, Mrs. Townshend stated that Phase 1 is expanding some of the parking to 201 spaces and as long as the applicant initiates Phase 1 they are in compliance and it does not sunset.

Mr. Keller stated that in regards to the overall timing and phasing of the various additions, that in conjunction with the considerations of the Board of Adjustment when any application is reviewed for Exceptional Practical Difficulty, and after seeing the photos and hearing explanations, and hearing the testimony regarding the use by the applicant which would otherwise place limitations on the building expansion by virtue of the necessity for the additional parking, he stands convinced that the Exceptional Practical Difficulty has also been met in this particular case.

Chairman opened the public hearing.

Mr. Jay Pearson was sworn in by Mr. Rodriguez.

Mr. Pearson testified that he was a member of the church. As a member of the church they are trying to do good things for the community and is in favor of the request as he also spoke on behalf of the other members present from the church.

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

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

Mr. Senato moved to approve variance V-15-15 based on the testimony given today and by the applicant in meeting the requirements for Exceptional Practical Difficulty. The approval would also include the increase in parking to be allowed according to the phasing schedule. The spaces and excessive code maximum will vary between 20-86 spaces as construction progresses to an eventual 245 total spaces and also inclusive of the required handicap parking spaces subject to the requirements of the Zoning Ordinance. The motion was seconded by Mr. Keller and unanimously carried 5-0.

Chairman asked if there were any questions.

Chairman stated that the next Board of Adjustment meeting is January 13, 2016.

Mrs. Townshend stated that Applicants will be notified of the meeting date change.

Chairman Sheth informed Mrs. Townshend that he would speak with the Mayor regarding if there is ever an issue of the Chairman and Vice Chairman being absent at the same time during a Board of Adjustment Meeting.

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

Meeting adjourned at 9:46 A.M.

Sincerely,
Maretta Savage-Purnell
Secretary