CITY OF DOVER BOARD OF ADJUSTMENT
AGENDA
Wednesday, May 15, 2013 9:00 AM

City Hall Council Chambers
15 Loockerman Plaza, Dover, Delaware

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES OF April 3, 2013 Meeting

NEW BUSINESS

Applicant #V-13-05:
74 Laurel Drive, Giterdone, LLC has requested a variance from the requirements of Article 5 §11.211 (c) of the *Zoning Ordinance* pertaining to new residential construction within the flood hazard area.

Subject property is zoned R-10 (One Family Residence Zone). The Tax Parcel is ED-05-077.14-01-32.00-000. The owner of record is Giterdone, LLC.

Applicant #V-13-06
200 West Loockerman Street, Capitol Plaza, LLC has requested a variance from the requirements of Article 6 §3.4 of the *Zoning Ordinance* pertaining to the size of off-street parking spaces.

Subject property is zoned C-2 (Central Commercial Zone) and is subject to H (Historic District Zone). The Tax Parcel is ED-05-077.09-01-86.00-000. The owner of record is Capitol Plaza, LLC.

Applicant #V-13-07
913 South DuPont Highway, Capitol One Diner has requested variances from the requirements of Article 5 §4.7 of the *Zoning Ordinance* pertaining to the setback from the right-of-way and exclusion zone for a pylon sign.

Subject property is zoned C-4 (Highway Commercial Zone). The Tax Parcel is ED-05-077.18-02-01.00-000. The owner of record is Tung Ching Lin.

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 3, 2013

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, April 3, 2013 at 9:00 A.M. with Chairman Sheth presiding. Members present were Mr. Senato, Mr. Hufnal, and Colonel Ericson. Mr. Keller was absent.

Staff members present were Mrs. Townshend, Ms. Cornwell, Mrs. Purnell, and City Solicitor Pepper.

APPROVAL OF AGENDA

Colonel Ericson moved to approve the agenda as submitted, seconded by Mr. Hufnal and unanimously carried (Keller absent).

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF September 19, 2012

Mr. Senato moved to approve the meeting minutes of September 19, 2012 as submitted, seconded by Colonel Ericson and unanimously carried (Keller absent).

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF January 16, 2013

Mr. Hufnal moved to approve the meeting minutes of January 16, 2013 as submitted by Staff, seconded by Colonel Ericson and unanimously carried (Keller absent).

APPROVAL OF THE EXECUTIVE SESSION MEETING MINUTES OF January 16, 2013

Colonel Ericson moved to approve the Executive Session meeting minutes of January 16, 2013 as submitted by Staff, seconded by Mr. Hufnal and unanimously carried (Keller absent).

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend, Director of Planning and Community Development, stated that the meeting will be conducted in accordance with the approved agenda as amended. She reviewed the procedure for the meeting. She noted that approved variances expire after one (1) year if the approved project has not commenced; that all public notice for the applications on this agenda was completed in accordance with code requirements; and the meeting agenda was posted in accordance with Freedom of Information Act requirements.

NEW BUSINESS

Applicant #V-13-02:

1004 South State St., ADP Properties, LLC has requested a variance from the requirements of Article 4 §4.14 of the *Zoning Ordinance* pertaining to the side yard setbacks.

Subject property is zoned C-2A (Limited Central Commercial Zone). The Tax Parcel is ED-05-077.17-07-21.00-000. The owner of record is ADP Properties, LLC.

Ms. Janelle Cornwell, Planner II, submitted the following items for the record: staff report, written statements provided by the applicant, letter, and site plan. The legal notice was published in the Delaware State News on March 24, 2013, and that the public was notified in accordance with regulations.

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

Representatives: Mr. Jack Ray, Beacon Construction Company and Jihun Pancko; Representative on behalf of the owners of the property.

Mr. Jack Ray, Beacon Construction Company and Jihun Pancko, Representative of the owners of the property, were sworn in by Mr. Pepper.

Mr. Ray testified that the property line was seven (7) inches off on the southwest corner of the building. The actual property is twenty-five (25) feet from the property line and does not impact the adjacent property. He stated that looking at the "As Built" there is roughly twenty-five (25) feet of a small pie about 6½ inches to nothing on the corner.

Responding to Chairman Sheth's question when he realized the problem; Mr. Ray stated that he realized it once the "As Built" was submitted.

Mr. Ray stated that there was a lot of construction in progress and the property marker could have easily been missed or hit by the contractor. The soil and weather were not good.

Responding to Chairman Sheth's question if it was approved by the Planning Commission as submitted, Mrs. Townshend stated that it was a construction error that the building was off of its intended location by seven (7) inches. It was approved in the location that complied with the code requirements.

Responding to Colonel Ericson's question if Mr. Ray could show him on the map what area was impacted and the areas he is requesting a variance, both Mr. Ray and Mrs. Pancko showed Board of Adjustment members on the map the area of the requested variance of seven (7) inches in the rear yard and six (6) inches from the side property line.

Mrs. Townshend stated that the contractor found the error and contacted the Planning Office.

Responding to Chairman Sheth's question if this would have been a problem in the future if it was not found and corrected, Mr. Ray stated that it would have been a title problem in the future. He stated that their construction company makes sure the job is done correctly. If there is a problem it is addressed and nothing is hidden.

Responding to Mr. Senato's question in regards to the process of construction how often are houses checked for accuracy, Mr. Ray stated that the houses are checked numerous times. With this project it was resurveyed four or five times. Once the foundation is in it is set.

Responding to Mr. Senato's question if the foundation was already completed, Mr. Ray replied yes, but the property markers that were placed were looked at before the actual excavation and concrete work was done.

Responding to Mr. Senato's question that somewhere between the last check and the pouring the problem happened, Mr. Ray stated that something happened in between the checks. It could have been done between the pulling of the strings on each marker because the ground was wet.

Responding to Colonel Ericson's question regarding the hardship if the application was denied, Mr. Ray stated that they when they received their "as-built" report they were 70% complete with the project. It would have been a catastrophe to cut and move the foundation and modify the actual layout of the building. He stated that an orthodontist will be located in the building and there is an open area where the chairs are strategically placed and it would have been a disaster to cut twenty-five (25) feet and would have cost over $10,000. The only thing that was not on the building at that time was the exterior brick. It would have major impact also on that Suite.

Chairman Sheth declared the public hearing open.

There being no one wishing to speak, Chairman Sheth declared the public hearing closed.

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

Mr. Senato moved to approve application V-13-02 that the variance be allowed to encroach seven (7) inches by six (6) inches for a setback of twenty-four (24) feet three (3) inches on the west side and six (6) inches on the south side yard as the applicant has demonstrated Exceptional Practical Difficulty, seconded by Mr. Hufnal and the motion carried 4-0 (Mr. Keller absent).

Applicant #V-13-04:

105 North West St., Solid Rock Baptist Church has requested a variance from the requirements of Article 3 §1.14(a)iv of the *Zoning Ordinance* pertaining to the front yard setback for a church.

Subject property is zoned RG-1 (General Residence Zone). The Tax Parcel is ED-05-076.08-03-02.00-000. The owner of record is Solid Rock Baptist Church.

Ms. Janelle Cornwell, Planner II, submitted the following items for the record: Site Plan, photos, staff report, and written statements provided by the applicant. The legal notice was published in the Delaware State News on March 24, 2013, and that the public was notified in accordance with regulations.

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

Representatives: Mr. Troy Adams, Engineer of Mountain Consulting; Pastor William Grimes; and Mr. Don Deshield, Regional Builders Incorporation.

Mr. Troy Adams, Pastor Williams Grimes, and Mr. Don were sworn in by Mr. Pepper.

Mr. Adams stated that the applicant was seeking a thirty (30) foot variance from the fifty (50) foot required front setback that is located in the RG-1 Zone. The fifty (50) foot setback only applies because it is a place of assembly. The normal RG-1 front yard setback is twenty (20) feet for residential purposes. Solid Rock Baptist Church was built on North West Street in 1930's and at that time zoning regulations did not exist. The existing sanctuary is 20.57 feet from the front yard setback which meets the current residential zoning. The proposed project is to construct a community outreach center that was referred to as a fellowship hall in the packet. The limitation is the size of the property that is a little over 24,000 square feet. The organization owns all of the property. This is their opportunity to improve the property to the extent possible. If they were granted a thirty (30) foot variance from the fifty (50) foot setback it would allow them to maximize the building potential size, the use of the site in regards to parking, and the general flow of the traffic in and out of the property. Two site plans were provided in the case if they were or were not granted the variance. If the variance was granted we would gain four (4) more parking spaces and have a total of thirty (30) parking spaces and better traffic flow due to the way the parking lot is configured. The angle of the parking spaces are more ninety (90) degrees than the sixty (60) degrees in the other scenario. The parking will be between the lot and the street. The character of the neighborhood is mainly residential. Across the street on North West Street there is Zone M (Manufacturing) that is primarily commercial. The block that the church sits on contains three (3) parcels. The adjacent property to the north being another church, and to the south a vacant residential lot. The neighboring church sits back roughly fourteen (14) feet from the right-of-way line. The current church sits roughly twenty and half (20½) feet back from the right-of-way line. To better fit the character of the neighborhood, if they are able to construct the new building and move it up in line with the existing sanctuary on the same parcel it would look a lot better than sitting back fifty (50) feet. They are requesting to have it twenty (20) feet back to improve the neighborhood, blend the new building into the character of the street, for it to not look like an "afterthought" and match the face of the existing sanctuary.

Responding to Mr. Hufnal's question regarding the proposed new building area being twenty (20) feet back that it actually sits back further than the two (2) existing buildings; Mr. Adams replied correct.

Responding to Mr. Hufnal's question if those were demolished then the new proposed building would not be as close as they are now and would give you more parking in the back; Mr. Adams replied yes.

Responding to Mr. Hufnal's question based on the number of seats it would be better than what currently exist; Mr. Adam replied yes, the current sanctuary has a gravel drive and unorganized parking.

Mr. Adams stated that there would be no impact at all to any adjacent property owners. It would be a total improvement to the neighborhood.

Responding to Mr. Senato's question that they would gain four (4) parking spaces and with moving the building forward towards North West Street you would gain another 506 square feet of building space and it would be in alignment with the other buildings; Mr. Adams replied yes.

Responding to Chairman Sheth's question if it was a growing church with an increase of members; Pastor Grimes replied yes. He has been there for five years and has experienced significant growth. As stated by Mr. Adams this proposed facility will help us to continue to meet the needs of the community.

Responding to Chairman Sheth's question regarding the number of members they currently have; Pastor Grimes replied they currently have sixty-five (65) up from fourteen (14) when he first came to the church.

Responding to Mr. Senato's question that they are also demolishing two (2) other buildings to enhance the area; Mr. Adams replied yes.

Responding to Chairman Sheth's question of how many members would he expect in the next five (5) years; Pastor Grimes replied that he did not know that answer.

Chairman Sheth declared the public hearing open.

There being no one present wishing to speak, Chairman Sheth declared the public hearing closed.

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

Chairman Sheth questioned if there were any discussions or motions.

Colonel Ericson moved to approve application V-13-04 based upon the Staff report and testimony given by the applicant, seconded by Mr. Hufnal and the motion was carried unanimously 4-0. (Keller absent).

Mr. Senato suggested sending a message to potential applicants that they do not want to come before the Board and make them pay for all of the expenses incurred, as there will be more applications based on mistakes.

Mrs. Townshend stated that the application fee does not cover the cost of the Board of Adjustment especially if there is only one (1) application.

Mr. Pepper stated that whether an applicant says they will get the Board of Adjustment to bless their error if it is an error or if it is intentionally that the problem becomes when there are variances for people whose existing houses are suddenly determined to be within the setback and this will impose a great hardship on them.

Mr. Senato stated that if a house has been in existence for a number of years that would be one item because the error has been brought about due to the house being sold, new construction, or

an addition. In the last three (3) or four (4) cases that have come before the Board of Adjustment they have been new construction where the setback is off and that is his concern.

Chairman Sheth stated that all cases have not been approved. The Board of Adjustment would have to face these questions in the future when buildings do not match the survey. This is a public service for the City and mistakes will happen. Perhaps the cost could be amended for those who come because of a mistake.

Mrs. Townshend stated that they would need to bring forward an amendment to the fee schedule. If there is a true Exceptional Practical Difficulty they do not want to make the fee a deterrent. There are a lot of people who do not like the code and want to go before the Board of Adjustment.

Mr. Senato stated that he would like to see something that could stop this from happening in the future.

Colonel Ericson stated that he was in agreement with Mr. Senato, but when the law was changed for Exceptional Practical Difficulty it set up a new environment compared to the one in the past. Maybe increasing the fee would help.

Mr. Senato recommended that the Board of Adjustment give authority to the Planning Staff to evaluate the fee structure and construction errors based on the discussions and testimony of the applications presented at the meeting today.

Mr. Hufnal moved to adjourn the meeting, seconded by Colonel Ericson and unanimously carried
4-0 (Keller absent).

Meeting adjourned at 9:45 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary

City of Dover

Board of Adjustment

May 15, 2013

V-13-05

Location:	74 Laurel Drive
Applicant/Owner:	Gitterdone, LLC
Tax Parcel:	ED-05-077.14-01-32.00-000
Application Date:	April 12, 2013
Present Zoning:	R-10 (One Family Residence Zone)
Present Use:	Vacant Parcel
Proposed Use:	Single Family Residence
Reviewed By:	Janelle M. Cornwell, AICP
Variance Type:	Area Variance
Variance Requested:	Allow for the construction of a new single family residence within the floodplain.

Project Description:
The applicant is requesting a variance from the *Zoning Ordinance* of Article 5 §11.211 (c) of the *Zoning Ordinance* pertaining to new residential construction within the flood hazard area. Specifically the applicant is requesting to allow a new single family residence within the floodplain.

Previous Variances
There have been two (2) previous variance applications to the Board of Adjustment to allow for construction of a single family residence within the floodplain. (#8-01 and V-05-07)

Adjacent Land Uses
The adjacent properties are residential and institutional uses. The properties to the north, east and west are zoned R-10 (One Family Residence Zone). The property to the south is zoned IO (Institutional/Office Zone). The property is bounded on the south by the St. Jones River.

Code Citation

Article 5 Section 11.211(c)

11.211 *Redevelopment.* Existing uses or buildings located within a flood hazard area are considered to be nonconforming structures and are subject to the following requirements if redevelopment occurs on properties within the flood hazard area.

a) Nonresidential uses existing in a flood hazard area seeking to redevelop a property under the requirements of Article 10 are required to reduce impervious surfaces for the lot by 15 percent from the preredevelopment conditions.

b) For nonresidential uses where less than 33 percent of the total lot area is located within a flood hazard area, the planning commission may waive or reduce the amount of required reduction in impervious surfaces. For projects being reviewed under administrative site plan review, the city planner may waive or reduce the amount of required reduction in impervious surface for projects where less than 33 percent of the total lot area is located within a flood hazard area.

c) New residential building construction or additions of impervious surface are not permitted in pervious areas of the flood hazard area.

Exceptional Practical Difficulties Tests

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 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.

1. The nature of the zone in which the property lies.

Applicant Responses:

a. The property is located in R-10 single family residential zone.
b. The neighborhood is single family residential

Staff Response:
The property is located within the R-10 (One Family Residence Zone) zone and the use as a single family residence is a permitted use.

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

Applicant Responses:
a. Exclusively single family residential.

Staff Response:
The character of the properties located within the area (as shown in the photos) are single family residences or vacant parcels of land.

The use as a single family residence is consistent with the other residential uses that are in the area.

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

Applicant Responses:
a. All properties located on south side of street are in flood plain.
b. All setbacks can be maintained.
c. Storm drainage exists between all neighboring properties.

Staff Response:
The construction of a new single family residence would not negatively impact the neighborhood as the other uses are single family residences or vacant lots, many of which lie within the flood plain.

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:
a. Article 5, Section 11.211 (c), prohibits building in the flood plain.
b. The subject property is a recorded lot.
c. The six neighboring properties similarly located in the flood plain are improved.
d. Sewer lateral has previously been installed.
e. Sufficient lot area exists to support a single family residential improvement.
f. The flood plain is three dimensional and if the finished first floor is above elevations 9.0 feet than the improvement is out of the flood plain.
g. Without the requested variances no improvement can be built on the property, which is inverse condemnation.

Staff Response:
Exceptional practical difficulty has been demonstrated as there is no other use that would be permitted on the property and prohibiting construction in the flood plain would render

the lot unbuildable. The house itself would be constructed at an elevation that would be above the flood plain elevation. The subdivision was developed to allow for all of the lots within the subdivision to be used as single family residences.

Variance Recommendation:
Staff recommends approval of the variance to allow for the building to be constructed within the flood plain for reasons as follows:

- The applicant has demonstrated exceptional practical difficulty as there is no other use that would be permitted on the property and not allowing the construction renders the lot unbuildable.
- The building of a single family house would be in keeping with the character of the neighborhood.
- The house would be built above the flood plain elevation.

Staff notes that the 100 foot setback from the top of bank of wetlands and water bodies over .25 ac. may be reduced to 75 feet for single family residential uses.

GITTERDONE LLC

BOARD OF ADJUSTMENT APP

APRIL 2013

VARIANCE APPLICATION

- ARTICLE 5, SECTION 11.211 (c)
  - BUILDING WITHIN THE FLOOD PLAIN
    - CONFORMS WITH OTHER DWELLINGS EXISTING IN NEIGHBORHOOD
    - FINISHED FIRST FLOOR WILL BE ABOVE THE FLOOD PLAIN
- REDUCE 25 – FOOT FRONT YARD SETBACK

THE FOUR CRITERIA

- THE NATURE OF THE ZONE IN WHICH THE PROPERTY LIES :
  - THE PROPERTY IS LOCATED IN R-10 SINGLE FAMILY RESIDENTIAL ZONE
  - THE NEIGHBORHOOD IS SINGLE FAMILY RESIDENTIAL
- THE CHARACTER OF THE VICINITY AND THE CONTAINED USES THEREIN :
  - EXCLUSIVELY SINGLE FAMILY RESIDENTIAL
    - CONTINUED

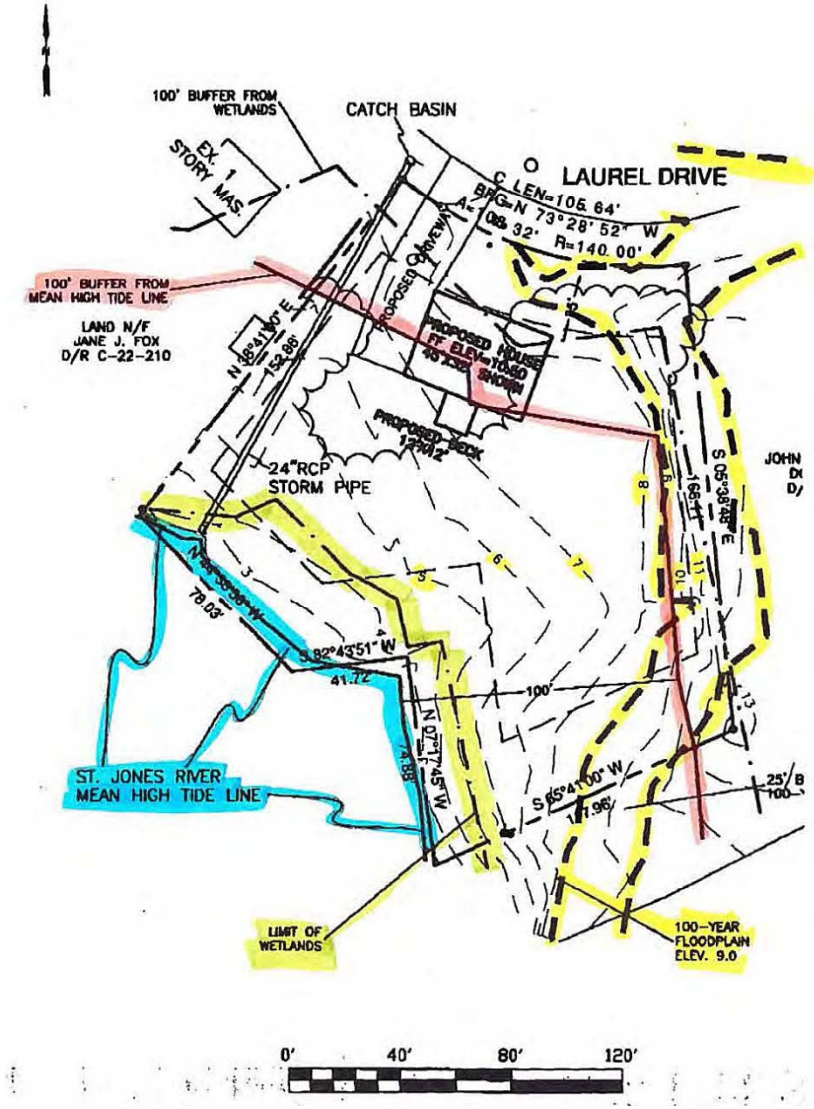
THE FOUR CRITERIA

- WOULD REMOVAL OF THE APPLICANT'S HARDSHIP SERIOUSLY AFFECT THE NEIGHBORING PROPERTY USES?
  - ALL PROPERTIES LOCATED ON SOUTH SIDE OF STREET ARE IN FLOOD PLAIN
  - ALL SETBACKS CAN BE MAINTAINED
  - STORM DRAINAGE EXISTS BETWEEN ALL NEIGHBORING PROPERTIES
    - CONTINUED

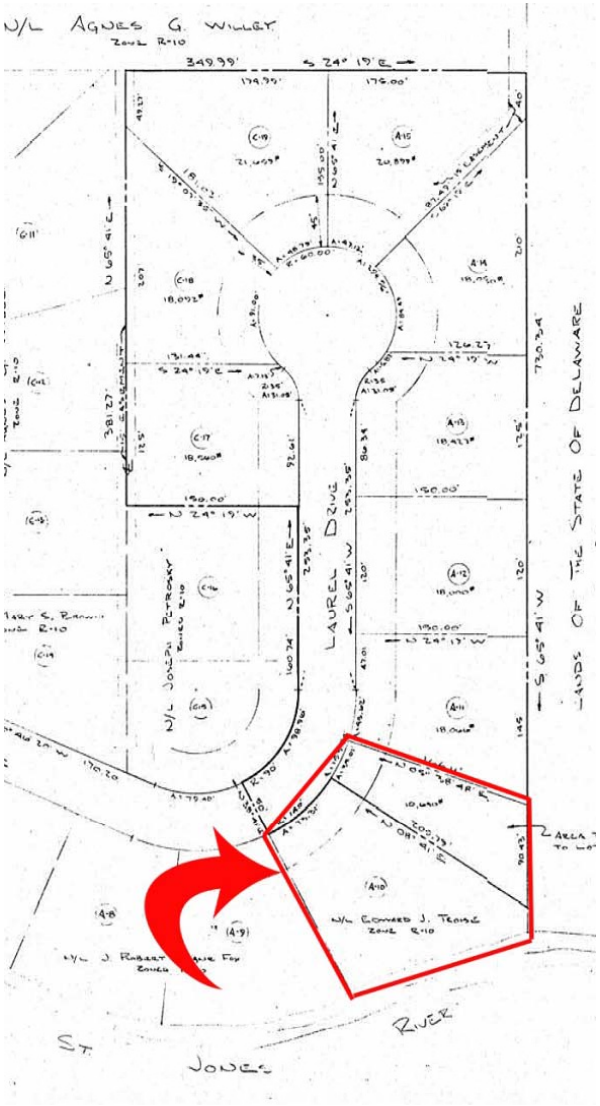
THE FOUR CRITERIA

- WHAT IS THE EXCEPTIONAL PRACTICAL DIFFICULTY?
  - ARTICLE 5, SECTION 11.211 (c), PROHIBITS BUILDING IN THE FLOOD PLAIN
  - THE SUBJECT PROPERTY IS A RECORDED LOT
  - THE SIX NEIGHBORING PROPERTIES SIMILARLY LOCATED IN THE FLOOD PLAIN ARE IMPROVED
  - SEWER LATERAL HAS PREVIOUSLY BEEN INSTALLED
  - SUFFICIENT LOT AREA EXISTS TO SUPPORT A SINGLE FAMILY RESIDENTIAL IMPROVEMENT
  - THE FLOOD PLAIN IS THREE DIMENSIONAL AND IF FINISHED FIRST FLOOR IS ABOVE ELEVATION 9.0 FEET THEN THE IMPROVEMENT IS OUT OF THE FLOOD PLAIN

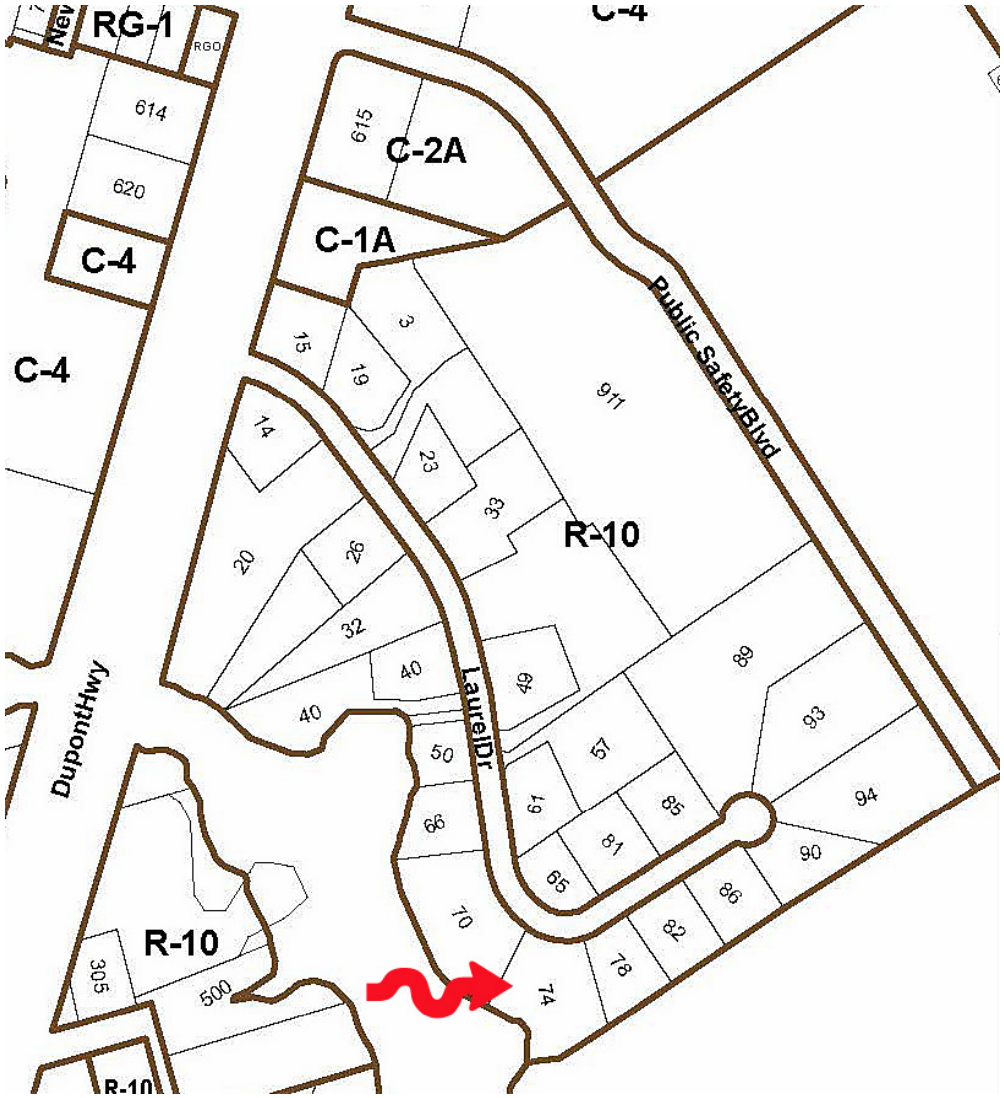
74 LAUREL DRIVE * FLOOD PLAIN PLOT



THE BEECHES PLAT RECORD



THE BEECHES ZONING MAP



THE BEECHES TAX MAP



HIGDON PURCHASE DEED

Accepted for Filing in:
Kent County
Doc# 20519
On: Jul 18,2005 at 02:57P

Tax Map No.: ED-05-077.14-01-32.00-000
Prepared By:
Parkowski, Guerke & Swayze, P.A.
P.O. Box 598
Dover, DE 19903

DEED

THIS DEED, Made this 13 day of ~~June~~ July A.D. 2005, by and between:

EDWARD J. TROISE, SR. and EVELYN TROISE, his wife, of 550 Pilottown Road, Lewes, DE 19958, hereinafter referred to as the "Grantor", Parties of the First Part,

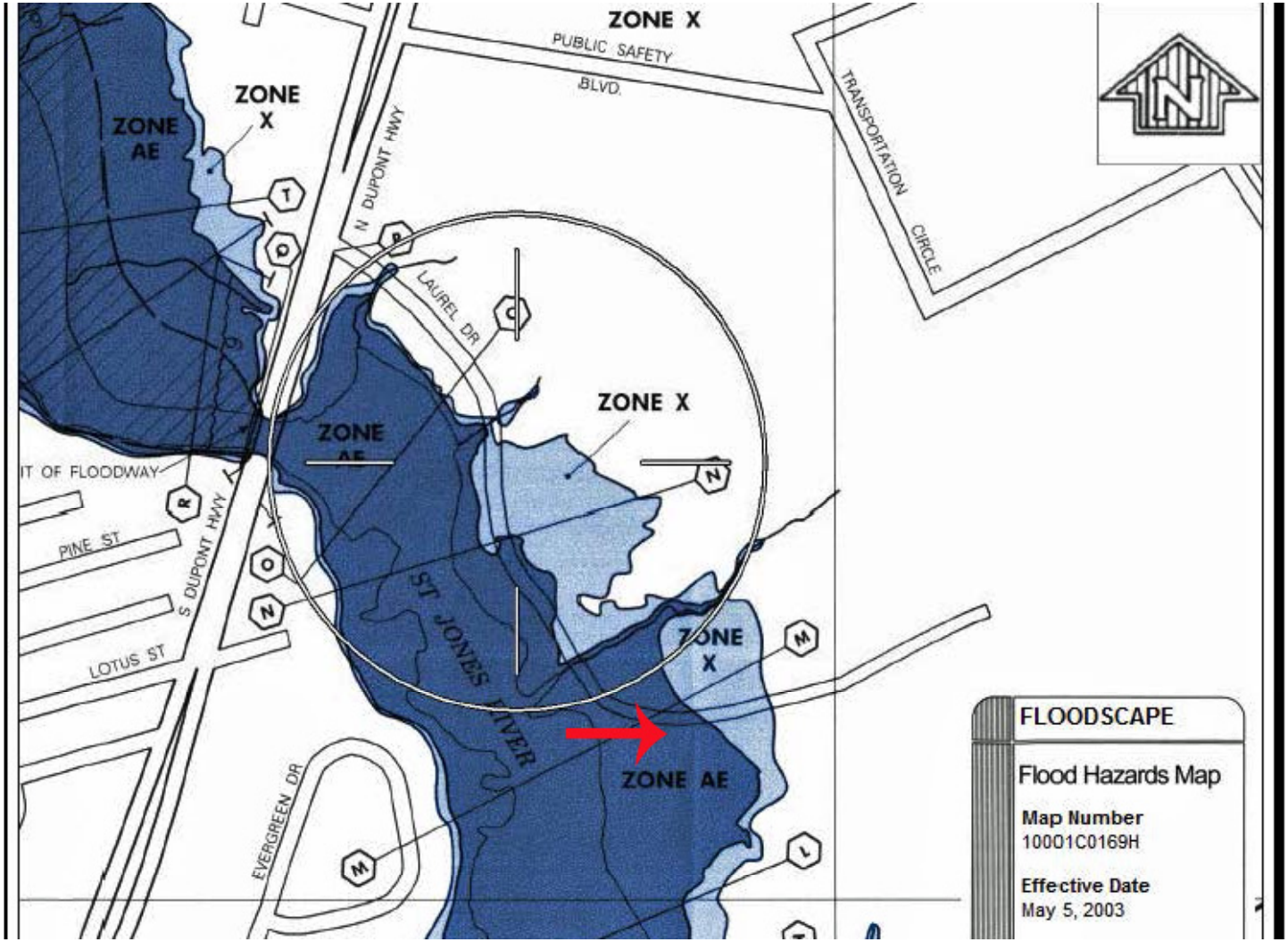
AND

JAMES A. HIGDON and THERESA A. HIGDON, his wife, of 49 Laurel Drive, Dover, DE 19901, hereinafter referred to as the "Grantees", Parties of the Second Part,

WITNESSETH, that the said Parties of the First Part for and in consideration of the sum of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS ($125,000.00), lawful money of the United States of America, the receipt whereof being hereby acknowledged, hereby grant and convey unto the Parties of the Second Part, his heirs, executors, administrators and assigns, the hereinafter described land and premises as follows, to-wit:

ALL that certain lot, piece or parcel of land, situated in the City of Dover, Kent County, State of Delaware, lying on the southerly side of Laurel Drive, a short distance East of U.S. Route 13; being all of Lot A-10 as shown on a plan of The Beeches Subdivision, Section II, as recorded in Plot Book 16, Page 48, and being more particularly bounded and described in accordance with a recent survey by Robert L. Larimore, RLS, dated June 23, 2005, as follows, to-wit:

THE BEECHES FLOOD MAP



INSURANCE COMPANY FLOOD INSURANCE ADVICE

Phil McGinnis

From: Gina Seibert [gina@pfisterins.com]
Sent: Wednesday, March 27, 2013 12:59 PM
To: Phil McGinnis
Cc: 'Mel Warren'
Subject: FW: Flood Insurance

Hi Phil,

As per Flood Services I have found out the following:

There should not be a problem obtaining flood insurance in an AE Zone as long as:

1. The buyer doesn't have too many previous flood losses.
2. An elevation certificate must be done.
3. The community must participate in NFIP (which it does).

If all of those conditions are met, I am told that there would not be an issue getting a flood policy.

Having said this, we would need an elevation certificate in order to get a rate on what it may cost. I have seen 'pre-construction' Ecs and once the property is done, it would have to be amended to the 'final' EC.

If you have any other questions, feel free to contact me. Thanks!!

Gina Seibert
Pfister Insurance, Inc.
PO Box 756
Dover, DE 19903
Phone: 302-674-3100

86 LAUREL DRIVE
VACANT LOT EAST OF SUBJECT



82 LAUREL DRIVE
IMPROVED UNIT EAST OF SUBJECT



81 LAUREL DRIVE
VACANT LOT EAST OF SUBJECT



78 LAUREL DRIVE
VACANT LOT NEXT TO SUBJECT



70 LAUREL DRIVE
IMPROVED UNIT NEXT TO SUBJECT



PROPERTY LOCATED IN FLOOD PLAIN

STORM DRAIN CULVERT
BETWEEN 70 LAUREL DRIVE & SUBJECT



PROPERTY LOCATED IN FLOOD PLAIN

70 LAUREL DRIVE
REAR VIEW



PROPERTY LOCATED IN FLOOD PLAIN

66 LAUREL DRIVE
IMPROVED UNIT WEST OF SUBJECT



PROPERTY LOCATED IN FLOOD PLAIN

66 LAUREL DRIVE
REAR VIEW



PROPERTY LOCATED IN FLOOD PLAIN

50 LAUREL DRIVE
IMPROVED UNIT WEST OF SUBJECT



PROPERTY LOCATED IN FLOOD PLAIN

50 LAUREL DRIVE
REAR VIEW



PROPERTY LOCATED IN FLOOD PLAIN

40 LAUREL DRIVE
IMPROVED UNIT WEST OF SUBJECT



PROPERTY LOCATED IN FLOOD PLAIN

40 LAUREL DRIVE
SLOPE DOWN TO RIVER



PROPERTY LOCATED IN FLOOD PLAIN

DRAINAGE SLOPE TO RIVER BETWEEN 50 & 40 LAUREL DRIVE



PROPERTY LOCATED IN FLOOD PLAIN

32 LAUREL DRIVE
REAR YARD SLOPING TO RIVER



PROPERTY LOCATED IN FLOOD PLAIN

20 LAUREL DRIVE
IMPROVED UNIT WEST OF SUBJECT



PROPERTY LOCATED IN FLOOD PLAIN

74 LAUREL DRIVE
FROM 82 LAUREL DRIVE



74 LAUREL DRIVE
FROM 78 LAUREL DRIVE



74 LAUREL DRIVE
SOUTH TOWARDS RIVER



74 LAUREL DRIVE
FROM SLOPE TO RIVER



74 LAUREL DRIVE
FROM SLOPE TO STREET



ST JONES RIVER LOOKING EAST



THE BEECHES AERIAL PHOTO



THE LONELIEST FIRE HYDRANT



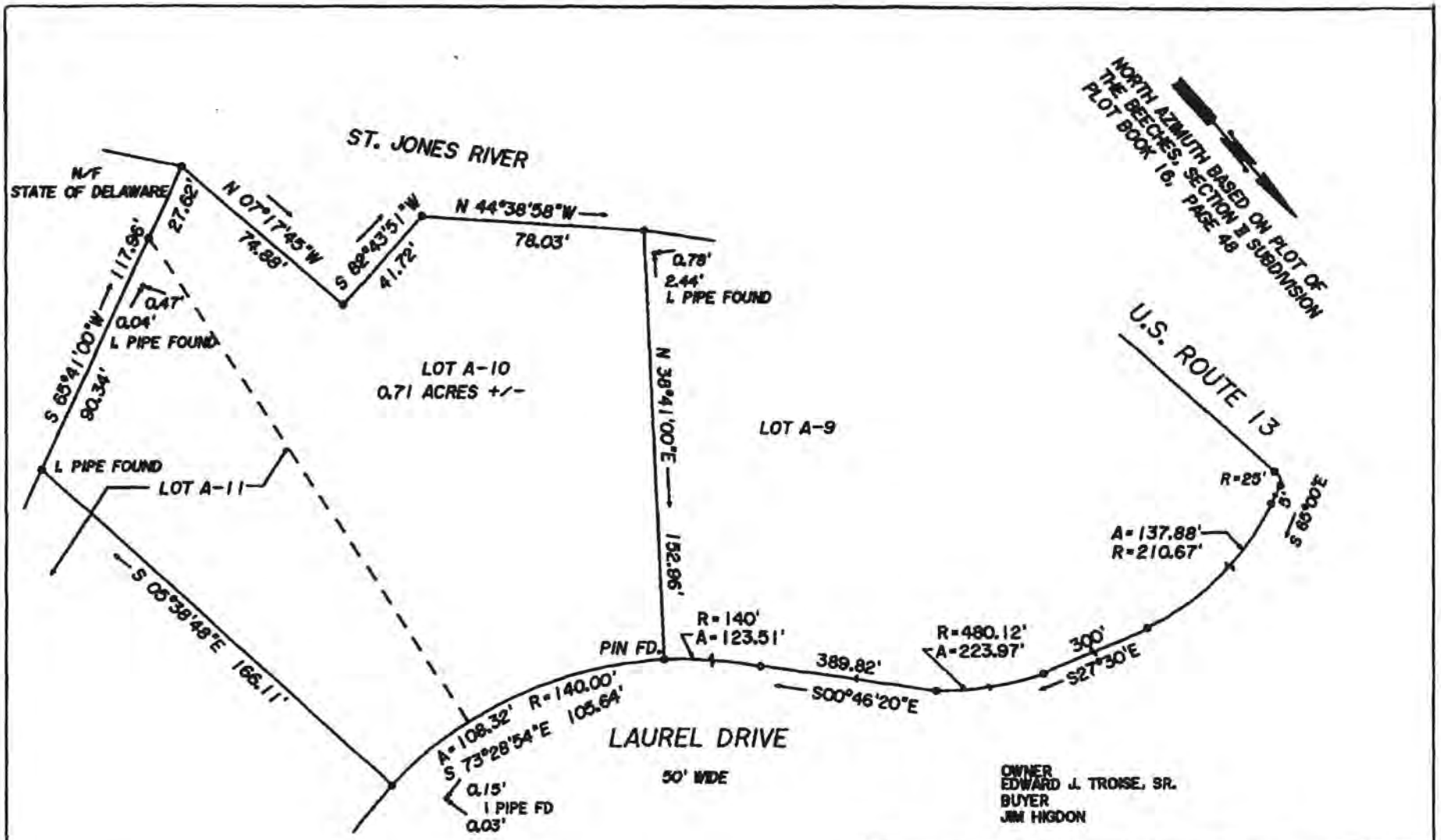
THE FOUR CRITERIA

I. THE NATURE OF THE ZONE IN WHICH THE PROPERTY LIES :
   a. THE PROPERTY IS LOCATED IN R-10 SINGLE FAMILY RESIDENTIAL ZONE
   b. THE NEIGHBORHOOD IS SINGLE FAMILY RESIDENTIAL

II. THE CHARACTER OF THE VICINITY AND THE CONTAINED USES THEREIN :
   a. EXCLUSIVELY SINGLE FAMILY RESIDENTIAL

III. WOULD REMOVAL OF THE APPLICANT'S HARDSHIP SERIOUSLY AFFECT THE NEIGHBORING PROPERTY USES?
   a. ALL PROPERTIES LOCATED ON SOUTH SIDE OF STREET ARE IN FLOOD PLAIN
   b. ALL SETBACKS CAN BE MAINTAINED
   c. STORM DRAINAGE EXISTS BETWEEN ALL NEIGHBORING PROPERTIES

IV. WHAT IS THE EXCEPTIONAL PRACTICAL DIFFICULTY?
   a. ARTICLE 5, SECTION 11.211 (c), PROHIBITS BUILDING IN THE FLOOD PLAIN
   b. THE SUBJECT PROPERTY IS A RECORDED LOT
   c. THE SIX NEIGHBORING PROPERTIES SIMILARLY LOCATED IN THE FLOOD PLAIN ARE IMPROVED
   d. SEWER LATERAL HAS PREVIOUSLY BEEN INSTALLED
   e. SUFFICIENT LOT AREA EXISTS TO SUPPORT A SINGLE FAMILY RESIDENTIAL IMPROVEMENT
   f. THE FLOOD PLAIN IS THREE DIMENSIONAL AND IF THE FINISHED FIRST FLOOR IS ABOVE ELEVATION 9.0 FEET THEN THE IMPROVEMENT IS OUT OF THE FLOOD PLAIN
   g. WITHOUT THE REQUESTED VARIANCES NO IMPROVEMENT CAN BE BUILT ON THE PROPERTY, WHICH IS INVERSE CONDEMNATION



OWNER
EDWARD J. TROISE, SR.
BUYER
JIM HIGDON

THE ACCURACY OF THIS SURVEY
EXCEEDS THE MINIMUM STANDARDS
FOR A CLASS "A" SURVEY.

ED-05-077.14-01-32.00-000

LOT A-10 & PART OF LOT A-11	
THE BEECHES, SECTION II	
CITY OF DOVER	
KENT COUNTY, DELAWARE	
ROBERT L. LARIMORE LAND SURVEYOR WYOMING, DE.	1" = 50' 8-23-05 FB70-73

City of Dover

Board of Adjustment

May 15, 2013

V-13-06

Location:	208 South Governors Avenue, 200-216 West Loockerman Street (Bayard Plaza)
Applicant:	Capitol Plaza, LLC
Owner:	Capitol Plaza, LLC
Tax Parcel:	ED-05-077.09-01-86.00-000
Application Date:	April 11, 2013
Present Zoning:	C-2 (Central Commercial Zone)
Present Use:	Mixed Use Building
Reviewed By:	Tracey Harvey
Variance Type:	Area Variance
Variance Requested:	Allow for three compact car off-street parking spaces and to allow for a reduction in the size of required off street parking spaces.

Project Description:
The applicant is requesting variances from the *Zoning Ordinance* of Article 4 Section 4.14 Zoning Bulk and Parking Regulations and from Article 6 Section 3.4 Required Off-Street Parking Spaces. Specifically, they are requesting a variance to allow for a reduction in the width of off-street parking spaces from 9'to 8' and to allow three parking spaces to be 8'x18'.

Adjacent Land Uses
The adjacent properties are a mixture of commercial, residential, and institutional uses. The properties to the north across Governors Avenue are zoned C-2 (Central Commercial Zone). The properties to the east are zoned C-2 (Central Commercial Zone). The properties

to the west are zoned C-2 (Central Commercial Zone), and the properties to the south across west North Street are zoned IO (Institutional Office).

Code Citation

Article 4 Section 4.14

	C-2
Minimum required:	
Lot area	
Lot width (ft.)	0
Lot depth (ft.)	70
Front yard (ft.)	0
Side yard (ft.)	None Required, but 10 feet min. if provided
Rear yard (ft.)	20 above ground floor. At ground floor, 5 ft. required
Side or rear yards which adjoin a residence zone (ft.)	25
Off-street parking	
Per 300 sq. ft. floor area or	½ for new construction
Per employee (whichever is greater)	0
Maximum permitted:	
Building height	
Stories	6
Feet	60
Floor area ratio	4.0

Article 6 Section 3. - Required off-street parking spaces.

3.4 *Size of spaces.* The minimum parking space dimensions shall be at least nine (9) feet in width and at least 18 feet in length. Disabled accessible spaces shall meet ADA requirements.

Exceptional Practical Difficulties Tests

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 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.

1. The nature of the zone in which the property lies.

Applicant Responses:
The site is located within the Downtown Development Target Area. Parking is provided both onsite and on street throughout the Downtown Dover area.

Staff Response:
The use as a mixed use building is a permitted use within the C-2 (Central Commercial Zone), which is a mixed use, downtown zone.

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

Applicant Responses:
The character of the immediate vicinity is a mix of retail and residential with parking lots scattered throughout the Downtown Dover area. Parking spaces within the Downtown area are at a premium. A specific survey was not done of downtown parking lots, but it appears there are lots with spaces that do not meet the 9' wide standard. The prevalence of smaller compact cars on the road today makes the 8' wide spaces more acceptable than in the past.

Staff Response:
The site was redeveloped in association with a Site Plan in 2010 for the construction of a five (5) story mixed use building for the uses of retail space on the first floor, and 48 apartments on floors two (2) through five (5), with parking located underneath a portion of the building at ground level. The Historic District Commission recommended approval of the Architectural Review Certificate in 2011 and granted a waiver to the side yard setback to one (1) foot. The uses are consistent with other uses in the area. There is no requirement for the other uses in the area to provide the required off street parking spaces. Parking is only required for new construction and residential uses.

The off street parking requirement for new construction in the C-2 (Central Commercial Zone) is 0.5 per 300 SF of floor area. The C-2 Zone requires one parking space for each apartment in the unit. The apartment building has 48 units which require 48 spaces. The square footage of the commercial area is 5,012 and requires

nine (9) parking spaces. A total of 57 parking spaces are required. The approved plan included 42 parking spaces with four (4) handicap parking spaces. The site only required two (2) handicap parking spaces; however there are four (4) ADA accessible dwelling units.

The Board of Adjustment granted variances at its November 3, 2010 meeting for the reduction in the required amount of Active Recreation Area and to allow parking to be located within three feet of the side and rear yards.

A waiver was requested for the overall reduction in the overall number of parking spaces from 57 to 42 and a waiver for the nine (9) required parking spaces for the commercial portion of the building. The waivers were approved at the November 15, 2010 Planning Commission meeting with conditional approval requiring parking permits in one of the municipal parking lots to provide parking for eight (8) residential spaces.

The site proposes three (3) compact parking spaces. The three (3) compact parking spaces are proposed to be 8'x 18'.

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

Applicant Responses:
The removal of the restriction will not affect neighboring properties, as the parking spaces are located onsite and under the building; therefore, hidden from view. Providing the correct number of spaces, albeit compact in size, will be a benefit to the surrounding area by providing onsite parking for vehicles that otherwise would need to park on the street.

Staff Response:
The reduction in the size of the parking spaces would not negatively affect the neighboring properties. There are a number of smaller automobiles being constructed and used. The proposed sizes of the compact parking spaces are only slightly smaller than what is required by the code and would accommodate smaller vehicles.

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:
The hardship associated with this application is caused by a directive from the Governor's office, where any project using State funding must provide recycling facilities onsite. This directive was given after Site Plan approval for the project. The developer is; therefore, required to provide a recycling facility. The chosen

parking spaces were the only feasible location for the recycling facility. This directly caused the request for the variance.

Staff Response:
The building and uses within the building are in compliance with the *Zoning Ordinance*. The building was reviewed as a mixed use building and was constructed in accordance with the *Zoning Ordinance*.

A reconfiguration of the parking lot is necessary to provide recycling facilities at multifamily developments that are funded with State funds and must be in accordance with Delaware State Housing Authority's minimum construction standards. This requirement became effective January 1, 2013 after the conditional Site Plan was approved by the Planning Commission on November 10, 2010, and the Final Site Plan approved by the Planning Office on August 3, 2011, and after construction was completed.

Variances Recommendations:
Staff recommends approval of the area variance for a reduction in the size of the required number of off-street parking spaces (compact cars) for the reasons as follows:

- The applicant has demonstrated exceptional practical difficulty with the requirement to provide recycling facilities at multifamily developments onsite.
- The reduction in the size of the parking spaces would not negatively impact the neighborhood.
- There are a number of smaller cars that are utilized by the general public that do not need the area of a standard parking space.
- Compact car stalls are consistent with sizing specified by parking standards of other locations that allow compact car parking. Dover's code does not provide for the different sizing. The 8' width is also consistent with the variances granted to permit compact car stalls at Compass Pointe (V-12-12).
- Staff recommends if the variance is granted that the compact parking spaces be signed as such.

LARSON
ENGINEERING GROUP INC.
CIVIL ENGINEERING & LAND PLANNING

April 11, 2013

Ms. Janelle Cornwell
City of Dover Planning
P.O. Box 475
Dover, DE 19903

RE: BAYARD PLAZA BOARD OF ADJUSTMENT

Dear Janelle:

This letter is to provide the response to the four criteria necessary for the requested Area Variance. The developer is requesting an Area Variance from Article 6, Section 3.4 to allow three compact car parking spaces at 8' wide. This is a variance from the 9' wide standard in the above referenced code citation.

The site is located within the Downtown Development Target Area. Parking is provided both onsite and on street throughout the Downtown Dover area.

The character of the immediate vicinity is a mix of retail and residential with parking lots scattered throughout the Downtown Dover area. Parking spaces within the Downtown area are at a premium. A specific survey was not done of downtown parking lots, but it appears there are lots with spaces that do not meet the 9' wide standard. The prevalence of smaller compact cars on the road today makes the 8' wide spaces more acceptable than in the past.

The removal of the restriction will not affect neighboring properties, as the parking spaces are located onsite and under the building; therefore, hidden from view. Providing the correct number of spaces, albeit compact in size, will be a benefit to the surrounding area by providing onsite parking spaces for vehicles that otherwise would need to park on the street.

The hardship associated with this application is caused by a directive from the Governor's office, where any project using State funding must provide recycling facilities onsite. This directive was given after Site Plan approval for the project. The developer is; therefore, required to provide the recycling facility. The chosen parking space was the only feasible location for the recycling facility. This directly caused the request for the variance.

Please review the attached plan and the above responses and call me if you have any questions.

Sincerely,
LARSON ENGINEERING GROUP, INC.

Douglas J. Liberman
Vice President

City of Dover

Board of Adjustment

May 15, 2013

V-13-07

Location:	913 South DuPont Highway
Applicant:	Capitol One Diner
Owner:	Tung Ching Lin
Tax Parcel:	ED-05-077.18-02-01.00-000
Application Date:	April 12, 2013
Present Zoning:	C-4 (Highway Commercial Zone)
Present Use:	Commercial
Reviewed By:	Janelle M. Cornwell, AICP
Variance Type:	Area Variance
Variance Requested:	Allow a pylon sign to encroach into the required setback and within the exclusion zone.

Project Description:
The applicant is requesting a variance from the *Zoning Ordinance* of Article 5, Section 4.7 Supplementary Regulations to allow a pylon sign to be located within three (3) feet of the property line and to allow the pylon sign to be within ten (10) of another pylon sign.

Adjacent Land Uses
The adjacent properties are a mixture of commercial and residential uses. The properties to the south are zoned C-4 (Highway Commercial Zone). The properties to the north are zoned C-4 (Highway Commercial Zone). The properties to the west across South DuPont Highway are zoned C-4 (Highway Commercial Zone), and R-8 (One Family Residence Zone). The properties to the east are zoned R-8 (One Family Residence Zone).

Code Citation

4.7 *Permitted signs.* Signs are permitted in all zones in accordance with the following table, which is a list of permitted sign types by use, proximity to residential uses and road classification.

Use	Road Type	Sign Type	Number Permitted	Max Size	Max Height	% of Wall	Setback (R.O.W.)	Exclusion Zone
Non-Residential Uses in Non-Residential Districts	Urban Principal Arterial	Pylon or*	1/frontage	100 S.F.	30'	N/A	15'	50'
		Pylon	1/frontage	150 S.F.	30'	N/A	31'	50'

Exceptional Practical Difficulties Tests

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 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.

1. The nature of the zone in which the property lies.

Applicant Responses:
The property is zoned C4. It is a small restaurant on an urban principal artery. The allowance for signage for this property is 10' high by 100 square feet, with a 10' right of way, and an exclusion (next to neighboring signs) of 20'.

Staff Response:
The property is zoned commercial and is surrounded by commercial uses along the road frontage. There are residential uses to the rear of the property. The residential uses to the rear of the property do not impact signage for the site. Signage is determined based on road classification. The property is located on an Urban Principal Arterial. This road types allow for a pylon sign.

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

Applicant Responses:
The properties adjacent to the subject property on the road side are non-residential. On the North side is Delaware Hospice and an empty lawyer's office (Doroshow, Pasquale, Krawitz & Bhaya). The pylon sign for that office is set back 25 feet from the road and stands about 25 feet high. On the South side of our location is McDonald's, which has its sign on the other side of their building, and stands about 30 feet high.

Staff Response:
The character of the vicinity is commercial with residential uses to the rear of the property and to the north across South DuPont Highway. In this area of South DuPont Highway there is a large grass area located within the right-of-way. The existing pylon signs in the area meet the current exclusion zone. The pylon sign to the north may be legal non-conforming with regards to the setback from the right-of-way. The existing building is considered legal non-conforming as it is setback nineteen (19) feet from the right-of-way. The C-4 Zoning District has a front yard setback of thirty (30) feet. The placement of the existing pylon sign could be partially blocked from the building as the building is setback less than nineteen (19) feet.

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

Applicant Responses:
The restriction will not negatively affect neighboring properties because it won't block any view of their property or signage. Our neighbor to the South, McDonald's, has their sign on the opposite side of their building. Our new sign location will not affect their business in any way. Our neighbor to the North has their sign in close proximity of our proposed new sign location. However, their sign is much taller than ours, and with the curve of the road, both signs will be equally visible and distinct from each other. The nature of the business does not rely on exterior displays, such as merchandise or samples of workmanship. All of the business is handled indoors, so our sign would not be blocking or hindering their ability to conduct business, as they have been. Additionally, the previous businesses that occupied this building (El Sombrero and China House) used to have their sign in the

same location we would like to. Lotus Plaza installed their sign while ours was still in that spot. The most recent owner made a detrimental mistake by moving the sign to its current location.

Staff Response:
The proposed location of the pylon sign could seriously affect neighboring properties as the proposed sign could be increased to a height of thirty (30) feet. The sign area may also be increased to up to 150 SF if the pylon sign were setback thirty-one (31) feet from the right-of-way. This could potentially block the visibility of the existing pylon sign on the adjacent property to the north.

4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is a permitted use under the provisions of the zoning ordinance.

Applicant Responses:
If the restriction is not removed, it will negatively affect the business because potential customers can't see the sign. Where it is currently placed, it is set too far back from the road as the curves away just before it gets to our site, and since the ground is the same height as the parking lots on both sides, our sign is constantly blocked by cars and trucks in both ours and McDonald's parking lots. The angle and position, along with the size and height of the present sign make it difficult to see even when there aren't any cars in the parking lot. People call all the time wanting to know where we are because they've never seen our sign, so they don't know we're here, and a lot of customers tell us they never knew we were here because they didn't see the sign until they received a coupon in the mail. We also believe this to be a public safety hazard. If a customer is coming from the South, sees the sign and tries to turn in at the last second, they might not get over in time to enter through the first drive, and it's a one-way traffic flow around the building. They might also try to quickly get in the left U-turn lane (just 50' from our exit) from the far right lane, and cut somebody off. We don't want to lose customers that way either.

Staff Response:
Pylon signs are permitted on Urban Principal Arterials. There is the opportunity to increase both the sign area and height of the sign without encroaching into the exclusion zone. The increase in height and sign area would allow for better visibility of the sign.

There is the exceptional practical difficulty for encroachment within the setback requirement. There is a large grass area within the right-of-way in front of the property. The sign is beyond fifteen (15) feet from the edge of the travel lane. The existing sign is located within a parking space which limits visibility of the sign. The only other location on the south side of the property that would meet the setback for

the sign is within a parking space. There is a no parking striped area closer to the right-of-way that would allow for the placement of the pylon sign that would not impact the parking on the site.

Variance Recommendation:
Staff recommends denial of the variance to allow the sign to be located within fifty (50) feet of another pylon sign for reasons as follows:

- The applicant has not demonstrated exceptional practical difficulty, and as the placement of the sign in its current location meets the exclusion zone.
- The sign in its current location on the south side of the property could be increased in both height and sign area allow for a more visible sign.
- The placement of the sign within ten (10) feet of the existing pylon sign to the north could impact the neighboring property as the sign may be increased in both sign area and height potentially obstructing the visibility of that sign.

Staff recommends approval of the variance to allow the sign to be located within three (3) feet of the right-of-way for reasons as follows:

- The applicant has demonstrated exceptional practical difficulty as there is limited area on the site for placement of the sign to meet the setback of a minimum of fifteen (15) feet for a 100 SF pylon sign.
- The placement of the sign closer to the right-of-way would be in keeping with the pylon sign located on the property to the north.

Board of Adjustment Application

Subject: Request for Area Variance at 913 South Dupont Highway, site of Capitol One Diner

Area Variance Criteria

1. State the nature of the zone in which the property lies.
   The property is zoned C4. It is a small restaurant on an urban principal artery. The allowance for signage for this property is 10' high by 100 square feet, with a 10' right of way, and an exclusion (next to neighboring signs) of 20'.

2. State the character of the immediate vicinity and the contained uses therein.
   The properties adjacent to the subject property on the road side are non-residential. On the North side is Delaware Hospice and an empty lawyer's office (Doroshow, Pasquale, Krawitz & Bhaya). The pylon sign for that office is set back 25 feet from the road and stands about 25 feet high. On the South side of our location is McDonald's, which has its sign on the other side of their building, and stands about 30 feet high.

3. State whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses. *The restriction will not negatively affect neighboring properties because it won't block any view of their property or signage. Our neighbor to the South, McDonald's, has their sign on the opposite side of their building. Our new sign location will not affect their business in any way. Our neighbor to the North has their sign in close proximity of our proposed new sign location. However, their sign is much taller than ours, and with the curve of the road, both signs will be equally visible and distinct from each other. The nature of the business does not rely on exterior displays, such as merchandise or samples of workmanship. All of the business is handled indoors, so our sign would not be blocking or hindering their ability to conduct business, as they have been. Additionally, the previous businesses that occupied this building (El Sombrero and China House) used to have their sign in the same location we would like to. Lotus Plaza installed their sign while ours was still in that spot. The most recent owner made a detrimental mistake by moving the sign to its current location.*

4. State whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is permitted uses under the provisions of the zoning ordinance. *If the restriction is not removed, it will negatively affect the business because potential customers can't see the sign. Where it is currently placed, it is set too far back from the road as the curves away just before it gets to our site, and since the ground is the same height as the parking lots on both sides, our sign is constantly blocked by cars and trucks in both ours and McDonald's parking lots. The*

angle and position, along with the size and height of the present sign make it difficult to see even when there aren't any cars in the parking lot. People call all the time wanting to know where we are because they've never seen our sign, so they don't know we're here, and a lot of customers tell us they never knew we were here because they didn't see the sign until they received a coupon in the mail. We also believe this to be a public safety hazard. If a customer is coming from the South, sees the sign and tries to turn in at the last second, they might not get over in time to enter through the first drive, and it's a one-way traffic flow around the building. They might also try to quickly get in the left U-turn lane (just 50' from our exit) from the far right lane, and cut somebody off. We don't want to lose customers that way either.

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

✓ Area Variance
___ Use Variance
___ Appeal
3/28/13 Pre-App Date JMC

Board of Adjustment Application

Application Information

Property Address: 913 S. Dupont Highway, Dover, DE 19901

Tax Parcel Number: 2-05-07718-02-0100-00001

Owner Name: Tung Ching Lin

Property Zoning: C4

Variance (s) Requested: Variance to place the sign 3' from the property line, and ~~within~~ 10' from an existing sign.

*Provide eight (8) copies of any survey, drawings, photos, site plan, etc. that may help support your application, and your response to the criteria. The criteria for a use variance and appeal are on the back of the form.

Area Variance

An area variance shall be evaluated on the following criteria: **Please state how your request meets each of these four (4) criteria.** See attached

1. The nature of the zone in which the property lies;
2. The character of the immediate vicinity and the contained uses therein;
3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; and
4. Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is permitted uses under the provisions of the zoning ordinance.

Signature

I Tung Ching Lin do affirm that I am the property owner on which the variance is sought and that all the information provided in this application is accurate to the best of my knowledge and belief.

P.O.A. Owner 4-10-13

Signature Title Date

BOA Application. -Adopted 11-3-10

13-700007

First State Signs @gmail.com
FAX 302.744.9993
OFFICE 302.744.9990
122 ROSEMARY ROAD. DOVER, DE 19901

FIRST STATE Signs

CLIENT: Capitol Diner

CONTACT:

JOB LOCATION: Dover

JOB SPECS:

This drawing remains the exclusive property of First State Signs. It is submitted for your consideration in the purchase of the product(s) manufactured according to these plans. This design cannot be copied in whole or in part, reproduced, altered or exhibited in any manner without the expressed written permission of First State Signs. Exceptions are previously copyrighted artwork supplied by client.

DRAWING DATE: 4/12/13

DRAWING BY: **Richard**

REVISION DATES:

APPROVED AS IS ☐ APPROVED AS NOTED ☐

APPROVED BY:

APPROVAL DATE:

Your signature acknowledges full approval of design layout and content, releasing First State Signs from responsability in regard to incorrect information and design. Any colors shown on this page are only representative of actual colors as noted. Final color will be matched as close as possible. Slight color variances are inevitable due to materials used.

FILE :

FILE LOCATION:







First State Signs @gmail.com
FAX 302.744.9993
OFFICE 302.744.9990
122 ROSEMARY ROAD. DOVER, DE 19901

FIRST STATE Signs

CLIENT: Capitol Diner

CONTACT:

JOB LOCATION: Dover

JOB SPECS:

This drawing remains the exclusive property of First State Signs. It is submitted for your consideration in the purchase of the product(s) manufactured according to these plans. This design cannot be copied in whole or in part, reproduced, altered or exhibited in any manner without the expressed written permission of First State Signs. Exceptions are previously copyrighted artwork supplied by client.

DRAWING DATE: 4/12/13

DRAWING BY: **Richard**

REVISION DATES:

APPROVED AS IS ☐ APPROVED AS NOTED ☐

APPROVED BY:

APPROVAL DATE:

Your signature acknowledges full approval of design layout and content, releasing First State Signs from responsability in regard to incorrect information and design. Any colors shown on this page are only representative of actual colors as noted. Final color will be matched as close as possible. Slight color variances are inevitable due to materials used.

FILE :

FILE LOCATION:

