CITY OF DOVER
BOARD OF ADJUSTMENT
September 19, 2012

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, September 19, 2012 at 9:00 A.M. with Vice Chairman Ericson presiding in the absence of Chairman Sheth. Members present were Mr. Senato and Mr. Keller. Mr. Sheth and Mr. Hufnal were absent.

Staff members present were Mrs. Townshend, Ms. Cornwell, Mrs. Harvey, and City Solicitor Rodriguez.

APPROVAL OF AGENDA

Mr. Keller moved to approve the agenda as presented, seconded by Mr. Senato and unanimously carried (Hufnal and Sheth absent).

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF AUGUST 15, 2012

Mr. Keller moved to approve the regular Board of Adjustment meeting minutes of August 15, 2012 with the necessary corrections, seconded by Mr. Senato and unanimously carried (Hufnal and Sheth 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 presented. 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.

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

NEW BUSINESS

Applicant #V-12-10:

100 Campus Drive, Delaware Technical Community College (DTCC) has requested a variance from the requirements of Article 6 §3.11 of the *Zoning Ordinance* pertaining to the maximum number of parking spaces.

Subject property is zoned IO (Institutional and Office Zone). The Tax Parcel numbers are ED05-057.00-01-01.00-000, ED05-057.01-01-08.00-000 and ED05-057.01-01-07.00-000. The owner of record is State of Delaware c/o Delaware Technical Community College.

Mrs. Tracey Harvey, Planner I, reviewed the staff report previously provided to members:

Mrs. Townshend stated that the legal notice was published in the Delaware State Newspaper on September 9, 2012 and the public was notified in accordance with the regulations.

Representatives: Mr. Gregory Moore, Becker Morgan Group and Mr. Bill Ayers, Delaware Technical & Community College. Mr. Moore was sworn in by Mr. Rodriguez.

Mr. Moore provided a presentation and reviewed the applicant responses to the Exceptional Practical Difficulties Tests. **(Attachment #1)**

Mr. Moore further stated that the site plan area in question was the Administrative Building off of West Denneys Road. They are proposing to add an additional 5,900 S.F. to the existing building, with a capacity of roughly twenty-seven (27) employees in the administration building. The building is designed for roughly thirty (30) people. He noted that all of the facilities throughout the state are expanding.

Responding to Vice Chairman Ericson question as to whether the aerial photograph was taken when classes were in session, Mr. Moore stated that the aerial photo included in his presentation was taken on July 4, 2007 when the campus was closed.

Mr. Moore stated that this will be a statewide Administration Building and the additional staff would be needed because the facilities are growing in the other three (3) DTCC locations.

Mr. Moore stated that in 2007 the City recognized unused parking in areas such as Lowes and Home Depot and proposed Article 6 §3.11 which limits the total parking to 25% above the minimum amount required. He expressed his opinion that DTCC was different because they built parking to meet their needs and because of this it creates a hardship. The other hardship and code that concerned him was the Institutional Office (IO) Zone that the City Hall, Library, DTCC, and many others are zoned and have the same exact parking requirements. The hardship for DTCC is created because they are compared to many different facilities and are expected to abide by one (1) parking code that represents each individual case.

Mr. Moore compared Delaware State University (DSU) to DTCC, stating that DSU is a residential campus and the calculation for parking was based on the building square footage. All of the residential housing is allowed to have more parking. Freshmen and sophomore students are not allowed to bring cars on campus; therefore, DSU has a lower demand for parking. DTCC has no residential housing, and students either drive or commute by bus which causes the hardship compared to DSU and other facilities.

Mr. Moore further stated that the overall hardship and Exceptional Practical Difficulty is based on the following circumstances. This building, although part of the Terry campus, has a statewide function. The park and ride is a community facility and DelDOT function. If the 200 spaces in the community park and ride area were eliminated, DTCC would be below the thresholds for total parking. The calculations show that if the park and ride spaces were not counted at DTCC and the twenty-two (22) requested spaces were counted, DTCC would be under the maximum parking requirement. He stated that there will be additional staff once the building is expanded; the peak use of the parking lot is during the fall semester; there are times

when cars park on the grass if needed; and there is a parking demand needed at DTCC for the twenty-two (22) spaces.

Mr. Moore stated that he received a letter dated September 18, 2012 from Mr. Dave Truax, Fire Marshal. **(Attachment #2)** The Fire Marshal supports the planned addition of the parking lot on the east side of the Administration Building which would give more access to the building and for staging of fire equipment. The additional parking would create an island for a fire hydrant to be located.

Mrs. Townshend stated that in terms of the parking comparison between DTCC and DSU the IO Zone parking requirement is one (1) space per 300 S.F. of floor area and Article 6 of the *Zoning Ordinance* also provides for parking requirements specifically for colleges and universities that specifies five (5) seats in the main auditorium, cafeteria or gymnasium. This is the standard held by DSU in addition to providing parking for their dormitories one (1) for every three (3) dormitory beds. It is based on the campus and not the building. In the case of DTCC, the parking calculation is based on floor area of buildings.

Responding to Vice Chairman Ericson question whether park and ride parking was included in the DTCC parking calculation, Mrs. Townshend stated that the 1,333 available spaces at DTCC include the park and ride area.

Mr. Moore further stated that there are twenty (20) different uses that fall under the IO Zone and that parking calculation is similar for most of them. However, the parking as specified in the code does not meet the needs for DTCC. There is a hardship in the way the code is written.

Responding to Mr. Keller question if the Administration Building (B-6A) was built at the same time as the rest of the campus and if it was part of the original campus site plan, Mr. Moore stated that he did not know if the present Administration Building (B-6A) was built at the same time as the main campus or if it was part of the original site plan. He stated that it was all contiguous property.

Also responding to Mr. Keller's question, Mrs. Townshend stated that the DTCC campus has evolved over time, and it would take some research to determine when the building was constructed.

Responding to Mr. Keller question whether Mr. Moore knew how the park and ride came to be part of the campus. Mr. Moore stated that he assumed that the land for the park and ride area (based on the survey) was part of the new Scarborough Road from the land that was exchanged between DTCC and DelDOT. He believed it was built as part of the construction of Scarborough Road, but was not aware of the exact details.

Responding to Mr. Keller question whether under the agreement between DelDOT and DTCC, could DelDOT amend the number of spaces dedicated to the park and ride, Mr. Moore stated he was unsure of the details of the agreement between DTCC and DelDOT, specifically as to whether the number of park and ride spaces could be relieved, eliminated, or reduced. One of the variance criteria is to demonstrate whether the surrounding area would be affected by the

allowance of additional parking area. Mr. Moore stated that it will not. This is a heavy traveled area, main commuter road that is surrounded by commercial facilities.

Representative
Mr. Bill Ayers, Director of Administration at DTCC and representing the owner was sworn in.

Responding to Mr. Keller's earlier question about the various functions in the administration building, Mr. Ayers stated that the administration function related to the Office of the President is college wide. There are similar administrative components located at the Terry Campus to serve the specific needs of the Terry Campus, but the Office of the President serves all of the campuses. He did not know the specifics of the agreement of the park and ride area, but it was an agreement with DelDOT when they acquired some of DTCC land during the Scarborough Road expansion.

Mr. Ayers further stated that for twenty-five (25) years he has served in the administrator capacity at DTCC. He worked at three (3) of the campuses and can attest that parking has been a problem at all of the campuses. His comments were as follows:

1. The college understands city staff forwarding the recommendation to the Board based on standard formulas. Planners need a better way to measure true demand.
2. The college appreciates the environmental impact on watersheds. During the summer DTCC constructed two (2) bio-retention areas. DTCC is a good steward of the land. DTCC would be willing to do something similar in regard to the new parking lot if necessary.
3. DTCC does not like to spend money on parking lots, but would rather spend the money on students' success. The students are customers. Students, guests, and visitors expect available parking when they come on the campus.

Responding to Mr. Senato question regarding how many additional employees would be at the new building, Mr. Ayers stated that there are currently forty-six (46) employees in the administration building. There are numerous employees of the Office of the President that are now housed at the Terry campus who would move to the Office of the President addition, and there are additional positions that will be coming into the new building. He was not sure of the exact number, but estimated approximately ten (10).

Mr. Senato asked how much usage the park and ride lot gets per week. Mr.Ayers estimated the usage of the park and ride lot on average would be approximately 50 vehicles per week. In the parking lot there are currently 234 spaces.

Mr. Senato asked what the distance was between the building addition and the park and ride lot. Mr. Moore stated that the distance is at least 2,000 feet.

Based on the number of spaces typically used in the park and ride lot, Mr. Senato indicated that on a daily average there are 184 spaces not being used that is within roughly a ¼ mile of the Office of the President addition. He asked if there was access to public transportation near the Office of the President. Mr. Ayers stated that the DART buses currently do not have a stop

location around the administration building; however, in the future there may be a possibility of having a stop location. He was not sure of the practicality or the wait time for students using the bus. This would depend on the route they are utilizing which would be a 15-30 minute waiting period.

Mrs. Townshend clarified that the buses are not a campus shuttle system, it is part of the DART transportation system and a schedule is published.

Responding to Mr. Senato question about whether there was a covered bus shelter near the park and ride, Mr. Ayers stated that the stop locations do provide covered seating areas. There are a lot of college wide meetings held in the central conference room at the Administration Building as well as visitors, and he would estimate that there are 10-15 additional vehicles daily. The proposed parking would be used solely for staff and visitors to the Administration Building. The fall semester has the heaviest parking demand. Regular complaints are received from the Office of the President on the Terry campus that students are utilizing the Office of the President parking area while attending class. New signage has been installed at the entrance of the existing lot indicating Office of the President parking only.

Mr. Keller stated that the 234 spaces allocated for the park and ride lot seem to be more than an abundant amount of spaces for that purpose. He questioned whether there could be a specific designation for the twenty-two (22) spaces that are being requested in the parking lots. He stated that there may already be a problem with people not paying attention to signs for designated parking. The ring road is at a very low speed limit and there is signage for the caution of pedestrians. He would not expect safety concerns to be exacerbated in the parking lots and the other common crossing areas.

Responding to Mr. Keller question as to the ability to restrict use of the park and ride lot by the pubic, Mr. Ayers stated that based on the existing agreement with DelDOT, the park and ride lot is accessible to the public and DTCC has no ability to restrict public use of the lot. An estimate of fifty (50) vehicles per day was given; however, if vehicles arrived there would be no way for DTCC to restrict access to those spaces. Mr. Ayers suggested that another agreement could be developed or structures installed to separate the lot. He stated that he was not aware of any initiative taken by DTCC to contact DelDOT to see if any accommodations could be made.

Responding to Vice Chairman Ericson question as to whether the park and ride spaces should be counted toward the DTCC campus parking count, Mrs. Townshend stated that since the park and ride facility can be used by patrons of the campus it cannot be separated, which could support the case for exceptional practical difficulty since DTCC has limited control over the 234 spaces.

Mr. Ayers stated that DelDOT has limited control over the spaces because anyone can park there. There are different factors that affect the daily usage of the parking lot. If the price of gas increased to $5 a gallon he would anticipate see a spike in mass transit usage which would affect the parking level. He stated that there are variables that no one has control over.

Mr. Keller asked how we arrived at the number of 234 spaces allocated for the park and ride. Mrs. Townshend stated that the count of 234 park and ride spaces was provided by the applicant. Each lot is assessed with their own number of parking spaces.

Responding to Vice Chairman Ericson question about the land ownership, Mr. Moore stated that DTCC owns the land (Planning Office Note: the owner of record is State of Delaware c/o DTCC).

Responding to Mr. Senato question about whether the applicant could eliminate the park and ride spaces from the parking count, Mr. Moore stated that the applicant would agree to take the park and ride spaces out and put the spaces to the side; however, staff was including the park and ride spaces in the total number because the park and ride is located on DTCC land. Also responding, Mrs. Townshend stated that the area is used by park and ride, patrons, car poolers, and people who come to the conference center. The 234 spaces cannot be eliminated from the overall parking calculation. She indicated that the Board of Adjustment's role is to determine if the constraints related to the park and ride create an exceptional practical difficulty that would justify a variance as it relates to maximum parking.

Responding to Mr. Keller's earlier question about the number of employees in the building, Mr. Moore referred to the presentation and explained that the cross section would be open office space with cubicles for staff, but that the building would accommodate approximately 30 employees.

Vice Chairman Ericson declared the public hearing open.

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

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

Mr. Senato moved to approve the parking variance for the additional 22 spaces for Application #V-12-10, located at 100 Campus Drive, seconded by Mr. Keller and unanimously carried (Hufnal and Sheth absent).

Mr. Keller moved to adjourn the meeting, seconded by Mr. Senato and unanimously carried (Hufnal and Sheth absent).

Meeting adjourned at 10:02 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary

Attachments to Original Minutes

Attachment #1 - Presentation provided by Mr. Gregory Moore Delaware Technical

Community College for Parking Variance 9/19/2012.

Attachment #2 - Correspondence from Mr. Dave Truax, Fire Marshal, dated September 18, 2012.