AGENDA

REVISED

CITY OF DOVER BOARD OF ADJUSTMENT

WEDNESDAY – October 26, 2011 9:00 AM – CITY HALL

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES OF September 21, 2011 MEETING

OLD BUSINESS

Applicant #V-11-11:

591 S. DuPont Highway: Deanna Hynansky has applied to the City of Dover Board of Adjustment requesting a variance from the requirements of Article 4 §4.15 of the *Zoning Ordinance* pertaining to the side-yard setback.

Subject property is zoned C-4 (Highway Commercial Zone). The Tax Parcel ID #s are ED05-077.00-01-12.01-000 and ED05-077.00-01-12.05-000. The owner of record is Deanna Hynansky.

NEW BUSINESS

Applicant #V-11-12:

211 Delaware Avenue: Central Middle School has applied to the City of Dover Board of Adjustment requesting a variance from the requirements of Article 5 §4.7 of the *Zoning Ordinance* pertaining to the number and size of signage.

Subject property is zoned IO (Institutional/Office Zone). The Tax Parcel ID # is ED05-068.17-03-66.00-000. The owner of record is The Dover Special School District.

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
September 21, 2011

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, September 21, 2011 at 9:00 AM with Vice-Chairman Ericson presiding. Members present were, Mr. Senato, Mr. Keller, Mr. Hufnal and Colonel Ericson. Mr. Sheth was absent.

Staff members present were Mrs. Townshend, Ms. Cornwell, Mr. Albert, Ms. Metsch and Mr. Rodriguez. Also present was Mrs. Kim Diehl, Mr. Scot Parsons, Mrs. Carol Ohm, Mr. William Weaver, Mrs. Pam Scott, Mr. Adam Perza, Mrs. Darlene Matthis, and Mr. Gregg Moore. Also speaking from the public was Mr. James Lafferty, Dr. Carol Sando, Mr. Robert Crawford, and Mr. Allen Perry.

APPROVAL OF AGENDA

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

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF AUGUST 17, 2011

Mr. Keller moved to approve the regular Board of Adjustment meeting minutes of August 17, 2011, seconded by Mr. Hufnal and the motion was unanimously carried 4-0 with Mr. Sheth absent.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend presented to the audience the policies and procedures that would be followed during these hearings.

OLD BUSINESS

Applicant #V-11-07:

155 N. DuPont Hwy, W. Scot Parsons has requested a variance from the requirements of Article 5 §4 of the *Zoning Ordinance* pertaining to the placement of signage and the placement of a pylon sign in the exclusion zone.

Subject property is zoned C-4 (Highway Commercial Zone) and the Tax Parcel IDs # are ED05-068.18-01-31.00-000 and ED05-068.18-01-37.00-000. The owner of record is W. Scot Parsons.

Representatives: Mrs. Kim Diehl, Kent Sign Company; and Mr. Scot Parsons, Property Owner.

Ms. Cornwell stated that this application was postponed last month in order for Staff to meet with the applicant to discuss other options. Staff did meet with the applicant and based on the discussion and additional information provided by the applicant, Staff has revised their recommendation, which has been provided to you today along with some other information. In addition, they have provided photographs indicating the difficulties with providing a monument sign that would function as well as meeting the setback. This application is for a pylon sign to be allowed in the Exclusion Zone. The Exclusion Zone is 150 feet away from any other pylon sign.

The request is approximately 145 feet from the Philly Pretzel Factory sign and about 90 feet from the Hollywood Diner sign which is considered legal non-conforming. Staff has made an addendum to the original Staff Report.

Mrs. Townshend stated that legal notice was published in the Delaware State Newspaper on September 4, 2011 and the public was notified in accordance with the regulations.

Colonel Ericson questioned if there were any members with a conflict of interest and there was none.

Mr. Parsons stated that they believe that the pylon sign is the only thing that would work in this spot and would tremendously help with business exposure.

Mr. Senato stated that one of the main complaints that the applicant has is if someone parked by the Hollywood Diner sign, it would block a monument sign for their property. However, in looking at the pictures submitted, as you head north with the pylon sign right near the Hollywood Diner sign, you are now blocking the Philly Pretzel Factory sign from the south end. Responding to Mr. Senato, Mr. Parsons stated that they are five (5) feet from being within the limits of the Exclusion Zone of the Philly Pretzel Factory sign.

Mr. Senato further stated that you stressed several times in last month's meeting that the one reason you did not want the original sign in the Hollywood Diner area is that it would be blocked on the south end by a vehicle. Yet you would actually be blocking the other businesses sign from the other direction. Responding to Mr. Senato, Mrs. Diehl stated that she has travelled this roadway and looked at the traffic. Our sign would not be blocking that sign. The trees block the Philly Pretzel Factory sign not our sign.

Mr. Senato stated that even though the trees are blocking the Philly Pretzel Factory sign without your pylon sign that is another issue. The issue he is bringing up is that even from the Hollywood Diner parking lot without the trees being an obstacle your sign would be an obstacle to another business. His suggestion, if you recall in discussion, was that there were other remedies, that in his opinion, could have been brought up to resolve the blocking visibility of the signs on the building and the sign that runs parallel to the highway.

Colonel Ericson questioned whether we had any correspondence from the Philly Pretzel Factory to date? Responding to Colonel Ericson, Ms. Cornwell stated that Staff has received no correspondence regarding this application.

Mr. Senato questioned if there was any consideration given to any of the suggestions that he made in the last meeting regarding trees and visibility at the meeting held with Staff and the applicant? Even though the City requires a certain amount of trees, the feasibility of still maintaining the ordinance with trees although at a different angle, spot, or height along with the signs on the building that they presently have, it would be much more visible than even a pylon sign. Responding to Mr. Senato, Ms. Cornwell stated that yes, we did take that into consideration; however, we also recognized that if they did not have the pylon sign, they would be allowed additional wall signage. In the addendum it was also noted that there is no real physical space to put additional wall signage on this building. They already have placed two (2)

wall signs on both the DuPont Highway side and the Edgehill side for at least some of the tenant spaces. They could trim the trees to make the wall signs more predominant; however, they still cannot increase the wall signage or place additional signage due to the architecture of the building. This is part of the reason why they are asking for the pylon sign.

Mr. Senato further stated that one of his suggestion in last month's meeting was to look at the First State Academy's sign which is probably a third larger than the South of the Canal sign; with the elimination of the trees or height of the trees or moving the trees, that would make it more visible from north, south or parallel to. The other suggestion was that the South of the Canal sign could be used again for the placement of the businesses that would be located in the building. Personally, he does not like the blockage of another business sign and felt that there was plenty of visibility of signs without adding a pylon sign.

Mr. Hufnal questioned with the exclusion of 150 feet with your sign and the Philly Pretzel Factory sign, what does that make the distance? Is it 145 feet so we would only be talking about five feet from what is required? Responding to Mr. Hufnal, Ms. Cornwell stated that it would be approximately 145 feet. The photograph provided has you looking dead on and when look at it from the road, you are looking at more of an angle so the picture is a little misleading.

Mr. Hufnal further stated that it would be more visible when you get there even though the trees block it somewhat if you are looking at it from a distance straight into it. Where from the highway, you would be at an angle and the trees block it more than anything else. Trees are mandated so they cannot do anything with them.

Mrs. Diehl stated that they are permitted a pylon sign; however, we are asking because of the Exclusion Zone. We are here because it does not meet the requirements of the Exclusion Zone.

Colonel Ericson questioned Mr. Senato in his opinion when he looked at this sign, would the pylon sign block it more than the trees would? From the photograph provided, it looks like the trees are the biggest problem for seeing the Philly Pretzel Factory sign. Responding to Colonel Ericson, Mr. Senato stated that this could be a possibility; however, we would just be adding another blockage against the blockage we already have.

Mr. Hufnal stated that the applicant has demonstrated some type of Exception Practical Difficulty in the aspect that they can't put any more signs on the building and a monument sign is impractical. You cannot set it back into the property because of the stormwater management drainage so the pylon sign is the most practical without interfering with the stormwater management area.

Colonel Ericson opened a public hearing and after seeing no on wishing to speak closed the public hearing.

Colonel Ericson asked if there was any correspondence received for this application. Responding to Colonel Ericson, Ms. Cornwell stated that there was none.

Mr. Hufnal moved to approve Applicant #V-11-07 located at 155 N. DuPont Hwy, W. Scot Parsons for the requested variances based on the resubmitted information that has been

provided to Staff, for the comments made today, and Staff comments made in the reports, seconded by Mr. Keller and the motion carried 3-1 with Mr. Senato in opposition and Mr. Sheth absent.

NEW BUSINESS

Applicant #V-11-02:
725 Horsepond Road, UHS of Dover, LLC has applied to the City of Dover Board of Adjustment requesting a variance from the requirements of Article 3 §22.4 of the *Zoning Ordinance* pertaining to the expansion of a structure within the Airport Environs Overlay Zone.

Subject property is zoned IO (Institutional/Office Zone) and AEOZ (Airport Environs Overlay Zone) APZII, Noise Zones B & C. The Tax Parcel ID # is ED05-078.00-01-08.00-000. The owner of record is UHS of Dover, LLC.

Representative: Mrs. Carol Ohm, Apex Engineering; Mr. William Weaver, Dover Behavioral Health Systems; and Mrs. Pam Scott, Attorney for Applicant, UHS of Dover, LLC.

Mrs. Townshend stated that Staff would submit for the record the Staff Report, Application, and the Site Diagram that was submitted. Staff has also submitted for the record the full citation of Article 3, Section 22 so that you have the full understanding of the Airport Environs Overlay Zone. A February 14, 2011 email from herself to the applicant regarding some of the history of the property as well as minutes from the City Council meeting of July 26, 1993 where Dover Behavioral Health was annexed into the City and zoned Institutional and Office and minutes from the Legislative and Finance & Administration Committee of June 25, and July 9, 2001 when there was discussion of adoption of the Airport Environs Overlay Zone.

Mrs. Townshend stated that legal notice was published in the Delaware State Newspaper on September 4, 2011 and the public was notified in accordance with the regulations.

Colonel Ericson questioned if there were any members with a conflict of interest and there was none.

Colonel Ericson stated that twenty (20) years ago he was in the Air Force as a Base Commander at Dover Air Force Base and he dealt with zoning issues around the base. He has discussed this with the City Attorney, Mr. Nick Rodriguez and he does not feel that there would be a conflict of interest because it has been so long and he has little dealings with the air base today.

Mr. Weaver and Mrs. Ohm were sworn in.

Mrs. Scott stated that as indicated, we are here requesting a variance in order to construct a sixteen (16) bed expansion to the existing facility. The Dover Behavioral Health System Facility is located at 725 Horsepond Road and is approximately a 47,000 S.F. private psychiatric facility. The project was located in this location back in 1993 and the City of Dover annexed the property into City limits and zoned the property IO to permit this particular use.

Mrs. Scott further stated that the facility opened in 1996 and has been in continuous operation since that time. Subsequently, in 2001 the Airport Environs Overlay Zone was adopted by the City of Dover. Our site specifically is located in the APZ-II Zone and pursuant to your Code provisions we are limited to expanding our facility by no more than 3,000 S.F. This creates an Exception Practical Difficulty for us in which she will outline for you throughout the testimony you will hear in the terms of our need to expand our facility to accommodate the needs of the community.

Mrs. Scott began to question Mrs. Ohm.

Mrs. Scott questioned Mrs. Ohm what her professional background is? Responding to Mrs. Scott, Mrs. Ohm stated that she is a Project Engineer for Apex Engineering.

Mrs. Scott further questioned that Apex Engineering was retained by the applicant to prepare the Site Plan is this correct? Responding to Mrs. Scott, Mrs. Ohm stated yes, that is correct.

Mrs. Scott asked Mrs. Ohm to show the Board members what the Site Plan is showing. Responding to Mrs. Scott, Mrs. Ohm, using a Site Plan on a board, showed where the existing facility sits and where the addition would be placed on the southeast corner of the property. There are currently fifty-seven (57) beds at the facility with sixteen (16) proposed.

Mrs. Scott further questioned if the entire site was located within the APZ-II Zone? Responding to Mrs. Scott, Mrs. Ohm stated that yes; the entire site is located within the APZ-II Zone.

Mrs. Scott further questioned that there is no way to expand this facility beyond 3,000 square feet without coming to the board is this correct? Responding to Mrs. Scott, Mrs. Ohm stated that this was correct.

Mrs. Scott further questioned if she knew the amount of acreage for this site? Responding to Mrs. Scott, Mrs. Ohm stated that it was approximately thirteen (13) acres.

This concluded Mrs. Scott's questioning of Mrs. Ohm.

Mrs. Scott proceeded to question Mr. William Weaver from Dover Behavioral Health Systems.

Mrs. Scott questioned Mr. Weaver of who he was employed by? Responding to Mrs. Scott, Mr. Weaver stated that he was employed by Universal Health Services as the CEO Managing Director of Dover Behavioral Health.

Mrs. Scott asked Mr. Weaver to provide for the Board his professional background. Responding to Mrs. Scott, Mr. Weaver stated that he has twenty (20) years of experience working in psychiatric hospitalization with seven (7) years of that being direct patient care with the last thirteen (13) being in administration.

Mrs. Scott asked Mr. Weaver to give the Board a sense of what this facility provides for services to the community. Responding to Mrs. Scott, Mr. Weaver stated that we are licensed in the State of Delaware as a Level IV Hospital. Our specialty is psychiatric in-patient and chemical

dependency treatment. We provide both in-patient services for people suffering from mental illness, behavioral disorders, and substance and chemical dependency problems. We also have intensive outpatient services where patients come to us Monday through Friday during the day and then in the evening for substance abuse rehab.

Mrs. Scott further questioned that you work with a number of local businesses in the area? Responding to Mrs. Scott, Mr. Weaver stated that yes they do. We are contracted with most manage care organizations in the State, Blue Cross Blue Shield, Aetna and relationships with Kraft Foods, and a Memorandum of Understanding with the Dover Air Force Base as a priority treatment center for them. In the military they are very selective in whom they use to provide services.

Mrs. Scott further questioned approximately how many people are employed at this facility? Responding to Mrs. Scott, Mr. Weaver stated that presently they have 161 employees with almost 100 of those benefited meaning they have insurance benefits with us with the remaining as relief staff. Our average hourly rate for our facility is about $25 an hour so these are good paying jobs.

Mrs. Scott further questioned if they would be adding any additional jobs because of this expansion? Responding to Mrs. Scott, Mr. Weaver stated that they would. The industry standard is that for each bed that is occupied by a hospital, you would typically add two (2) to three (3) additional employees per bed.

Mrs. Scott further questioned that this particular location for this facility is somewhat isolated from the general population is this an accurate statement? Responding to Mrs. Scott, Mr. Weaver stated that it is as there are very limited residential residents in the area and we are completely surrounded by industry and agricultural. On two sides of this facility most of the land is owned by Bayhealth and is vacant at this point in time. Coker Concrete is located on the back side with State Janitorial and Peninsula Glass Company on the other side of us. Across the street is the Pierce Fence Company and a wooded area in which he is unsure who owns it.

Mrs. Scott stated that she brought this up because this seemed important at the time the project was approved by the City of Dover and annexed into the City of Dover is this correct? Responding to Mrs. Scott, Mr. Weaver stated that it was at that time and is at this time. It is isolated as it allows patients and the families that come to visit them a level of anonymity and privacy because it is setback on the 13 acres away from the road with a tree lined driveway so that you cannot see which cars are in the parking lot. If patients are in the outpatient program, they can come and go freely without people being able to see who is there. While he was not employed here in 1993 he has spent considerable time talking to Bayhealth administration regarding their efforts and who they spoke with before they built the facility. Many of the employees who are they have been there that long. We were also able to read the minutes from previous planning sessions with the City. What we understand is that, at the time, there was considerable effort to place the facility in other locations within the City and those were rejected by property owners as people did not want this type of facility in their neighborhood. At that time, Bayhealth was unable to produce the agreement. Mr. Terry Murphey, the CEO at Bayhealth claims that he spoke with Dennis Klima who was the former CEO and they had a written agreement with the Dover Air Force Base that stated that they would not oppose the

facility being built there as long as noise attenuation was taken into consideration. Bayhealth spent considerable time ensuring that this facility was designed to make sure there were no problems involving noise.

Mrs. Scott further questioned if this facility was the only facility of its type south of the C&D Canal in Delaware? Responding to Mrs. Scott, Mr. Weaver stated that yes it is his understanding that in 1993 when the facility was built there were 3 other facilities downstate; Beebe Medical Center and Nanticoke Memorial had their own psychiatric units. Dover Behavioral Health at that time, became the St. Jones which previously had been the ADAPTS Unit on campus at the hospital. They outgrew the space and needed to relocate it off campus. At the present time, the only facility south of the canal that provides services for both adults, adolescents, and chemical dependency treatment for inpatient and psychiatric services is our facility. When you go to Maryland there are a couple of smaller units for adults; however, they do not provide all of the services that we provide.

Mrs. Scott further questioned that if someone needed services from Kent and Sussex Counties and could not come to your facility, where would they need to go? Responding to Mrs. Scott, Mr. Weaver stated that they would have to go to New Castle County approximately 45 minutes away or they would have to go out of state for services primarily into the Philadelphia or Baltimore region.

Mrs. Scott further questioned if this has been a concern of both the hospital and other agencies in terms of transportation of people and bed availability? Responding to Mrs. Scott, Mr. Weaver stated that that is and has been a significant issue. Last year they ran an occupancy rate of 95% for a hospital. Industry standards say that if a hospital is running over 80% to 85% then they are having capacity issues. What this means is frequently we go on "Diversion" where we cannot take additional patients. At the end of 2010 we increased the bed capacity from 52 beds to 57 beds. We can do that within the existing space we just reconfigured things without adding additional square footage. Last year we were running at 90% occupancy. Even with the five (5) additional beds, we are running at 100% occupancy this year. 67% of the days this year already we have been on "Diversion" at some point in time meaning we have stopped taking patients between 6:00 AM and 6:00 PM. They have had to be held in the emergency room until beds become available up north or they are held for a couple of days until we can get beds. They are backing up Bayhealth and Milford Memorial Hospitals and other hospital emergency rooms. About 43% of our patients come from the emergency rooms in this area with the remainder coming from primary care physician's offices in town, social services, and people who have been here before and come back to the facility. For an example, we had psychiatric patients this weekend that sat at the emergency room all weekend at Bayhealth that are not patients with medical conditions that were backing up the emergency room and often times cause Kent General Emergency Room to go on "Diversion" to other facilities because they cannot take anyone else for medical problems because they have several psychiatric patients in the emergency room.

Mrs. Scott further stated that you obviously currently have an issue. Do you see there continuing to be a need in the community that would justify this expansion? Responding to Mrs. Scott, Mr. Weaver stated that there is no one planning to add psychiatric beds. We have letters of support that did not come for this application; however, were provided to the State Health Resources

Board where we also must gain approval for expanding the facility. All three of the downstate medical hospitals supported our application for expansion. We have a letter of support from Terry Murphey and Stephen Rows with Nanticoke Memorial Hospital and from Thomas Snyder of Beebe Hospital all supporting our application because no one else is interested in expanding into the service. Based on Delaware Population Consortium data, we expect most of the State's growth over the next ten (10) to twenty (20) years to be in Kent and Sussex County; the areas that we take care of.

Mrs. Scott further stated that essentially, with your current situation with only being able to expand by 3,000 square feet, at some point would you have to decide to leave this facility and go elsewhere? Responding to Mrs. Scott, Mr. Weaver stated that they will at some point in the very near future have to make some significant decisions about what we are going to do from this point and have not determined what that is going to be. We are not able to successfully fulfill our admission anymore which is to be the psychiatric hospital provider and chemical dependency provider for Kent County. It would be difficult to relocate anywhere else in the City or for that matter the County because working in other areas he can attest that people just do not want our type of location in a residential area.

This concluded Mrs. Scott's questioning of Mr. Weaver.

Mrs. Scott stated that the Board has received three (3) letters of support one from E. Bradford Bennett, NAMI Delaware, and one from the Chamber of Commerce.

Mrs. Townshend stated that additionally, on your desk is a letter from Colonel Mark D. Camera of the U.S. Air Force on behalf of the Dover Air Force Base essentially reinforcing that this is within the APZ-II Zone and according to the AICUZ Study, Hospitals and Nursing Homes are not appropriate and that expanding the facility puts a large population at risk. The other three (3) letters are in support of the application.

Mr. Hufnal questioned that when you talk about the 12,000 foot addition you talked about it being setback from the zone and it was 3,000 S.F. wide. There is no place on this facility that you could make this addition that you would be outside of this zone is that correct? Responding to Mr. Hufnal, Mrs. Scott stated that this is correct as the entire property is located within the zone.

Colonel Ericson stated that if the approval process was different and if the zoning had been put into effect in 1993 and then your facility requested permission to build there it would not have been approved because it is incompatible with this zone. Hospitals would not be permitted in this zone because of noise and potential for accidents. What have you done to solve the noise problem?

Responding to Colonel Ericson, Mr. Weaver stated that the facility was specifically built with noise attenuation taken into consideration. The new expansion will be built to the same Code. He can tell you from being in the facility for the past five (5) years there is very little noise. You do not typically even notice the airplanes going over as they do not fly directly overhead anyway. This is more a problem in his own private home in Jonathans Landing then it is at this facility. You do not hear them and that is because of the thickness of the walls and the pitched

roof. The way that it has been built and the facility has been insulated, specifically to prevent any noise, patients do not complain of noise and our expansion would be built the same way. Colonel Ericson questioned approximately how far their facility is from the base boundaries? Responding to Colonel Ericson, Mr. Weaver stated that he would be guessing it to be approximately one mile from the base because you have to go across the full Coker Concrete Plant to get to the base and then on the other side when you get to the runway you would have to go across a corn field that is approximately 20 +/- acres. Mrs. Patricia Faust of the Air Force Base told us that we are close to the outer edges of the APZ-II; however, we are still in it.

Colonel Ericson further stated that the other potential concern is for accidents. A C-5 airplane did go down there under emergency a couple of years ago. He noticed that the Chamber of Commerce is on record opposed to this because it is not appropriate in the APZ-II Zone and increases the risk of a high population area. Have you coordinated or talked to the Air Force Base and received their thoughts on this? Responding to Colonel Ericson, Mr. Weaver stated that they have talked to the base regarding this and have had multiple conversations with Mrs. Patricia Faust from the Engineering Department. We have spoken with the mental health clinic, Jana Wilson, Flight Commander for the mental health wing and while they support us and they do use us frequently for services, the issue is according to them, the Air Force Base cannot, while they want to support us, they cannot support us because they set a precedent in other areas where people are trying to build hospitals right next to Air Force Bases. They tell us that this is not an issue for us; however, they have to be consistent across the county.

Mrs. Scott stated that this is somewhat of a unique situation by virtue of the fact that the facility was established a number of years before this zone was ever created and the facility was specifically put in this location after a lot of due diligence about where it could be located. A lot of consideration by the City Planning Commission and City Council went into the location and the need to rezone the property specifically for this particular use. She feels that they are caught in a catch-22 here because we came here and found what we thought was the perfect location and the City agreed at the time and then some several years later we have this additional layer of regulation that was put in place that no one really anticipated. At the same time, we are the only facility in the area that provides these services and these services are highly needed. We continue to have more and more people come here and expect the population in Kent and Sussex County to continue to expand and we think the need will continue to grow. At some point, we will outgrow this facility and will probably need to relocate; however, that is not now. Now this is an ideal location for us because they are away from the general population as most people do not want this type of facility around them. She feels that they do have an Exceptional Practical Difficulty and if you were to approve this, she does not feel that you would be setting a precedent because this is such a unique situation.

Mr. Weaver stated that you were talking about the airplane and the mishap that happened a couple of years ago. At any given day there are already 57 patients there because 67 days of the year we are running at 100%. In addition to that, there are 40 patients there on any given day in one of the intensive out-patient programs. So there are already 100 patients there on any given day with 40 Staff members on any given shift maybe even more depending on what is going on. So there are already 150 people on location. Our statement to the Air Force Base and the Commander is that we are asking for sixteen (16) additional beds and a few additional staff members.

Colonel Ericson stated that he understood that your hospital has done a great service for the community over the years and he remembers when you had difficulties finding a place. He also remembers that Kent County had a problem when they tried to put a facility in near the Air Force Base with quite a fight on that project. The problem is that when you read in the paper where there are more base closures and when they meet and discuss which bases to close, encroachment is a big factor. If they increase the missions brought to this base, you could at some time, have a fighter base here which would produce more noise than what we have got. He would hate to see this approval being the tipping point to cause this base to close because the Air Force Base pumps hundreds of millions of dollars into the community. When he was in the Air Force there were about 5,000 active duty military and 2,500 reservists with 11,000 family members.

Colonel Ericson questioned if we had any correspondence from the Air Force Base? Responding to Colonel Ericson, Mrs. Townshend stated that they did have correspondence from the Air Force Base. You referred to it earlier as being received from the Chamber of Commerce. The Chamber's Correspondence was actually in favor of the proposal.

Mr. Hufnal stated that in 1993 when we approved this facility, according to his notes, it said that the Air Force Base and the City of Dover had a discussion that took place during the annexation process and there was no comment on record for either support or objection by the Dover Air Force Base for the location of the facility there. This took place in 1993 and then the zoning restrictions came in 2001 so they were there basically before the zoning restrictions took place which in his mind gives you an Exceptional Practical Difficulty of your expansion because of the other zoning regulations that came into effect.

Mrs. Townshend stated that it is rare and is a unique case where she did quite a bit of research prior to the applicant coming forward to the Board of Adjustment. One of the things that she was looking for was back in 2001 when the City adopted the Airport Environs Overlay Zone to see if we had anything on record from Bayhealth in terms of the impact on their property. She could not find anything on record one way or another from Bayhealth; however, she will note that the minutes from the Legislative and Finance & Administration Committee of July 9. Specifically in those minutes Mr. Petit de Mange stated that "the revised proposed ordinance would exempt proposed additions to existing residential and commercial buildings. The regulations would impact new construction only." What was not reflected in those minutes was that the threshold was set at 3,000 square feet. It was not anticipated that you would have an addition of more than 3,000 square feet. If the threshold had been set somewhere else or if the addition was 3,000 square feet or less, we would not be here.

Mrs. Scott stated that she spoke with the attorney that represented Bayhealth at that time and he indicated to me in speaking to his client that they were not aware that they even got notice of the fact that this Ordinance was coming along and the impact it would have. Responding to Mrs. Scott, Mrs. Townshend stated that the notice goes to whoever the contact is on the record.

Mr. Hufnal stated that when the AEOZ zone was adopted, it was not intended to inhibit expansion of buildings and uses and that happened in 2001. Responding to Mr. Hufnal, Mrs. Townshend stated that this seems to be what the minutes from the Legislative, Finance & Administrative Committee indicates.

Mr. Hufnal further stated that there is a limit of 3,000 square feet; however, they are asking for 12,000 square feet? Responding to Mr. Hufnal, Mrs. Townshend stated that is correct.

Mr. Senato stated that you would be limited from expansion and this would be a maximum expansion. You would not be able to expand because of the zone. Responding to Mr. Senato, Mr. Weaver stated that there is 13 acres here and there is potential for further expansion based on the acreage that we have at this time.

Mr. Keller questioned that you relate to the facility being at 100% capacity at least in 2011 and 95% last year, can you give me an idea of how many turn-aways that you have had in 2011 at any given time? Responding to Mr. Keller, Mr. Weaver stated that it is called "Diversions" we can clearly show 214 adult patients so far this year that were admitted to Rockford Center and Meadow Wood Hospital from this area. We initially got the call, kept the names, and knew where they ended up at. If we go through our diversion log where we got a call saying someone was looking for services and we could not provide services at that time; however, they may have been admitted the next day or a couple days later, we counted 424 where we turned them away because we were on "Diversion." Even those numbers would not be accurate. They are likely much higher because when Kent General Hospital calls and states they have a psychiatric patient and ask if we have a bed and we are on "Diversion", they are not going to call us back again as they know we are on "Diversion" and will call elsewhere. They will call the State Police and have the patient transported.

Mr. Weaver stated to put things into perspective when someone is diverted up north, they are placed in the back of a police car, handcuffed, and taken to either Rockford or Meadow Wood Center or to the state psychiatric center whatever the situation may be. Being a social worker at one point from a personal and social worker point, this bothers him. He met with the Delaware State Police yesterday and they stated that they have transported 150 people this year so far that needed services in Kent County.

Mr. Keller stated that if a variance was granted and you produce another 16 beds, it sounds as though you are still immediately at capacity and having to have "diversions" in any event. What gives him some concern is the expression from the Department of the Air Force Base with giving rise to increasing risks to that hospital population, staff and patients. There is some history where any variance granted cannot necessarily give rise to unacceptable levels of threat to public safety and the welfare of the populace. When you speak in terms of relocating in any event, and it sounds with your facility at such a capacity, do you have anything in mind as to a timeframe in which you might relocate?

Responding to Mr. Keller, Mr. Weaver stated that it is not our intention nor our desire to relocate. We think that the area that we are in is perfectly suited for us. We feel that we are centrally located in the state and a good location in the City that allows us access to City services. It is not our desire to be in a position where we would even have to start considering relocating elsewhere. The second thing is what would you do with a psychiatric hospital if we do relocate? This is an expensive piece of property that he would not see a potential buyer for the 50,000 square foot building. It is not advantageous for us to move elsewhere. We do think that the 16 bed expansion will meet the needs for the foreseeable future. We have done considerable due diligence in trying to provide the accurate number that we feel will meet the

community need. The 16 bed expansion is designed to allow us, if we need to expand, to be able to do that interior. There are larger areas that will be built that would accommodate additional space if we need to expand further. Not only do we have to present our case here we have to go before the Delaware Health Resources Board to expand beds. When we first saw the letter that the Air Force Base sent, we viewed that as mutual because, while they are saying that they cannot set a precedent and support our expansion, they also in the letter talk about the relationship that they have with us so we view this as mutual. He does not believe that there is anyone here from the Air Force Base to speak as he does not recognize anyone. He feels that this speaks in and of itself that the Air Force Base is not here opposing this themselves.

Mrs. Scott stated that they do have to go through a process outside of this process to increase their license capability to add beds. In going through that process, you would have to make a case for the need and you have to make a case for what you are proposing to meet the need will be sufficient for some period of time. Responding to Mrs. Scott, Mr. Weaver stated that there is a 24 member full board called the Delaware Health Resources Board that is independent and they assign a subcommittee to review our application. We have had to make two (2) presentations. All of these members have full health care backgrounds with a few of them having behavioral health backgrounds. They take a very conservative approach of approving additional hospital beds in the State. We have been told that they plan to recommend full approval to the full board because we have stated our case and they have looked at it and have spent three (3) months looking at it.

Mr. Hufnal stated that he would have to agree with the applicant in respect with the Colonel's letter from the Air Force Base as it is neither derogating or promoting this. In the Colonel's comments he states that even though it puts the population at a higher risk, it actually puts all of us at a higher risk in the Dover area because it states that most major accidents occur within ten (10) miles of any Air Force installation. It is not just this center that they are talking about to him it would be all of the greater Dover area. In their research they talk about over 800 major accidents that all occurred within ten (10) miles of an Air Force Base.

Colonel Ericson stated that he agreed they are just pointing out what our rules already say in code and if they objected that much to this project, he is sure that they would have a representative here at this meeting.

Mr. Senato questioned how long a patient's stay in any one bed is? Responding to Mr. Senato, Mr. Weaver stated that our average stay for patients is seven (7) days in the hospital. It is approximately two (2) to four (4) weeks in the outpatient services.

Mr. Senato further questioned in adding these 16 beds what percentage would be an elimination of diversions? Responding to Mr. Senato, Mr. Weaver stated that this proposal is designed to eliminate 91% of those diversions. The other 9% of the diversions that we have are for services that we do not provide. They would need to go to an additional services program that we cannot treat.

Colonel Ericson questioned if the base has had any meetings with you regarding this application? Responding to Colonel Ericson, Mrs. Townshend stated that yes she met with Trisha Faust with the Engineering Division along with the applicant with a number of meetings being held

collectively. The Mayor and the City Manager have met with the Wing Commander. There have been discussions and the base is aware of the request and feels that their letter is their response to these discussions.

Mr. Senato stated that you have stated that you do not intend in the near future of moving because of the type of building and operation that you are. Even if you added the 16 additional beds in the distant future and you start having "Diversions" again, what would you do at that point? Responding to Mr. Senato, Mr. Weaver stated that the 16 beds and 12,000 square feet we build those rooms and areas for patients have been sized to allow us to add additional beds within the existing space. We would still have to go back to the Delaware Health Resources Board to request approval if we go above a ten (10) percent addition inside the facility. We have expanded the cafeteria, put in a centralized nurse's station and new medication rooms so that we would not have to expand the facility beyond the 12,000 square feet.

Colonel Ericson opened a public hearing.

Mr. James Lafferty – Executive Director of the Mental Health Association in Delaware – Mr. Lafferty was sworn in. He stated that he is here to support the expansion of Dover Behavioral Health as Executive Director of the Mental Health Association in Delaware and Chair of the Governor's Advisory Council to the Division of Substance Abuse and Mental Health. As a member of the Medicaid Advisory Committee and as a former member of a sub-committee of the Health Care Commission that convened in 2006, he has advocated to the Mental Health Association for improvements and access to mental health care both in Sussex County and in Kent County. There is an acute shortage of mental health professionals in Sussex County and we believe also in Kent County. As part of the Health Care Commissions subcommittees look at access in both counties. The Division of Public Health applied to the Federal Government for shortage designations for psychiatry mental health professions in both Kent and Sussex Counties. Since 2006, we have seen a growing number of people being transported both from Kent and Sussex County to facilities in New Castle County, Delaware. One of the big feeders to psychiatric care is the emergency department of all of the hospitals who receive patients that are not there because of a standard medical problem. We consider mental illness and psychiatric conditions to be treatable medical conditions. They are being sent to specialized facilities and in Kent and Sussex Counties, Dover is the only facility. If you can imagine the drive from Dover to New Castle County in the back of a police car that does happen and is something that the law enforcement agencies would rather not do; however, based on their own regulations, they must do that when they take someone into custody. That's what they are doing. They are taking a patient into custody to transport that patient to a facility in New Castle County. Law Enforcement Constables are the only ones that can transport these patients.

Mr. Lafferty further stated that he is also a member of the Supreme Court Mental Health Task Force with Justice Henry DuPont Ridgely as the Chairman. We have done a number of things, first mental health courts have been expanded down to Kent County. For the first time ever we helped sponsor and design a three day law enforcement training course open to officers throughout the State on how to effectively or better work with someone who is in a crisis and has a psychiatric condition and has found their way to the Emergency Department and now needs continuing care as well as how to best work with someone they may encounter on the street who seems to have a serious psychiatric problem. We also are taking a look at how we transport

these individuals so that they would not have to be taken in handcuffs. Imagine having to be transported from Sussex County to New Castle County which would be a two hour drive in handcuffs followed by your family. It is not fair to the individual and places an unnecessary burden on the families who want to be with their loved one; however, if they have to work how can they drive two (2) hours to Wilmington and two (2) hours back on a couple day basis to see their loved one.

Dr. Carol Sando, Delaware State University – Dr. Sando was sworn in. She stated that she is here on another matter; however, she does have a comment in support of this proposal. She wanted to comment overall on the mission. One of the missions from the Delaware State University, College of Education and Health Public Policy is to correct health disparities. One of the disparities in this country and in this area is not only the health disparities related to population and relative to economics but also to diagnosis those who are mentally ill and that they do have a standing in the health disparities roll. This proposal is an effort to meet the immediate needs of the community now and in the future. There is one population that always increases and it is not orthopedics, and not heart disease it is the mentally ill. She does support this application. Federally "The Healthy People 20/20" which is a Federal initiative to correct health problems in the country, mental illness is one of those identified by the Federal government.

Colonel Ericson questioned if there was any correspondence for this application? Responding to Colonel Ericson, Mrs. Townshend stated that there is the four (4) pieces of correspondence that has already been acknowledge for the record.

Mr. Senato moved to approve Applicant #V-11-02 located at 725 Horsepond Road, UHS of Dover, LLC for the request of additional 12,000 square feet along with the comments received in the letter from Dover Air Force Base.

Mr. Hufnal stated that he would submit an addendum to the motion with the support of the people here today in addition to the letters that have been received on file and recommendations of Staff.

Mr. Senato moved to approve the motion with the submitted addendum, seconded by Mr. Hufnal and the motion was unanimously carried 4-0 with Mr. Sheth absent.

Applicant #V-11-09:
545 S. State Street: Adam Perza has applied to the City of Dover Board of Adjustment requesting a variance from the requirements of Article 4 §4.1 of the *Zoning Ordinance* pertaining to the rear-yard setback and lot coverage.

Subject property is zoned R-8 (One Family Residence Zone) and subject to the H (Historic District) Zone. The Tax Parcel ID # is ED05-077.09-05-71.01-000. The owner of record is Adam and Kasey Perza.

Representative: Mr. Adam Perza, Property Owner

Mr. Albert provided an overview of the application.

Mrs. Townshend stated that the exhibits for the record would include the Staff Report, the Application, and the Site Plan.

Mrs. Townshend stated that legal notice was published in the Delaware State Newspaper on September 4, 2011 and the public was notified in accordance with the regulations.

Colonel Ericson questioned if there were any members with a conflict of interest and there was none.

Mr. Perza stated that he is in agreement with the comments made and added by the City Staff after review of the application internally. We are seeking a variance of Section 4.1 of the 1992 City Code to permit an encroachment into our rear yard setback and for the maximum lot coverage. Present City Code limits this to 35% of development for each lot and we are seeking a variance to allow for up to 38.7% to construct an addition onto the back of our property. The addition we believe will be a minimum intrusion into the neighboring community and built and conditioned upon the difficulties and usage test as supplied by the City to compliment the nature and character of the surrounding neighborhood.

Mr. Senato questioned that this is a new structure proposed, there is nothing there now? Responding to Mr. Senato, Mr. Perza stated that this is a new addition to the house that is there. This would be a 15x20 foot addition onto the rear of the house.

Mr. Senato further questioned the northeast corner of the property where there would be an infringement on the property, is there a garage on the property? Responding to Mr. Senato, Mr. Perza stated that yes; there is a garage beneath their house. If you look at the house from the rear yard it is actually three stories and if you look from the front it is two stories. As you go around the driveway that curves around there is a level beneath the house which only has a single car garage about 25x15 feet.

Mr. Senato further questioned where that section would be at? Responding to Mr. Senato, Mr. Perza stated that the portion of the property that the Commissioner is asking about would be ten (10) feet from the east line of the property that abuts up to an old stable that is presently used as a garage by our neighbor so there are no residents to the east of our property, to the south of the property or to the west of their property. There are other houses to the north with three (3) homes up until Elm Terrace.

Mr. Keller stated that you indicated in your application that the neighboring property owners have been supportive of your application and no opposition from community members is anticipated. Do we have any record of that support by written document? Responding to Mr. Keller, Mrs. Townshend stated that Staff has not received anything in terms of correspondence either in favor of or in opposition to any property owners within 200 feet of the Perza property that were notified by mail.

Mr. Albert stated that he has taken a couple of phone calls on this application who were all neighboring properties and none of them have had an issue with it. Nothing in writing; however, there were a few phone calls.

Mr. Keller further questioned if the phone calls were expressing support or just general inquiry as to what was being contemplated? Responding to Mr. Keller, Mr. Albert stated there was no objection. They wanted to know what the application was because they had received a notice and then in finding out what they wanted to do had no problem with it.

Mr. Perza stated that the general purpose of the application is to expand our house as we have two (2) children and our house is presently 1,400 square feet. We are looking for an expansion to allow for more space because we are cluttered with baby toys and strollers.

Colonel Ericson opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Mr. Hufnal moved to approve Applicant #V-11-09 located at 545 S. State Street: Adam Perza based on Staff comments and the comments made at today's hearing, seconded by Mr. Keller and the motion was unanimously carried 4-0 with Mr. Sheth absent.

Applicant #V-11-10:
852 S. Little Creek Road: The Dover Special School District has applied to the City of Dover Board of Adjustment requesting a variance from the requirements of Article 5 §4 of the *Zoning Ordinance* pertaining to the type and size of signage.

Subject property is zoned IO (Institutional/Office Zone). The Tax Parcel ID # is ED05-077.00-01-02.00-000. The owner of record is The Dover Special School District.

Representative: Mrs. Darlene Matthis, Rogers Sign Company.

Ms. Cornwell provided and overview of the application.

Mrs. Townshend stated that legal notice was published in the Delaware State Newspaper on September 4, 2011 and the public was notified in accordance with the regulations.

Mrs. Townshend stated that submitted for the record is the Staff Report, Application, and Site Plan, and photos.

Colonel Ericson questioned if there were any members with a conflict of interest and there was none.

Mr. Matthis was sworn in.

Mrs. Matthis stated that the East Dover Elementary School is looking to place a new monument sign out front as currently they have no sign except for on the building. In this area they are allowed 16 square feet and are looking to increase that slightly under ten (10) square feet. The area of the school has a massive frontage in the front of the school and we feel that with a slightly larger sign it would fit in with the surroundings. Across the street there is residential; however, the other photographs that she provided show other signs in the area. We feel that the type of signage that they are looking to build with the brick pillars that will match the school and with the other residential areas nearby of Country Village Apartments, Clearview Meadow

Apartments, Courtland Manor, and Blue Hen Mall all those signs fit in. We selected the smallest size and are asking that an electronic message center to be included in the sign for persons going by with emergency notices with the school and upcoming events and will help with the neighborhood to know what is going on within the school. East Dover Elementary School wants their sign to match the South Dover Elementary sign as they are affiliate schools. The sign will be the exact same size as the one located at South Dover Elementary School. (A handout of a picture of the proposed sign and the sign located at South Dover Elementary School was provided.)

Mrs. Matthis further stated that this project is being funded by the State of Delaware because they feel that this school is in definite need for a sign of this type with being able to have the electronic message center to have up-to-the-minute notices that could go out immediately.

Mr. Keller questioned that in both of the submitted sketches for the proposed sign he notes that the LED message center is shown on both. Is he wrong in noting that there appears to be no difference in the size of the LED message board itself? Responding to Mr. Keller, Mrs. Matthis stated that this is correct the size of the message center is 1'10"x5'6" in both cases.

Colonel Ericson opened a public hearing.

Dr. Carol Sando – Property Owner Closest to School Across the Street – Stated that she speaks for the Stoney Creek Homeowners Civic Association as an executive board member. The school is a source of pride to the community and the construction of the sign is consistent in construction. She as a property owner and the Homeowners Association supports this variance.

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

Mr. Senato moved to approve Applicant #V-11-10 South Dover Elementary School located at 852 S. Little Creek Road for the 26 square feet monument sign, seconded by Mr. Hufnal and the motion was unanimously carried 4-0 with Mr. Sheth absent.

Applicant #V-11-11:
591 S. DuPont Highway: Deanna Hynansky has applied to the City of Dover Board of Adjustment requesting a variance from the requirements of Article 4 §4.15 of the *Zoning Ordinance* pertaining to the side-yard setback.

Subject property is zoned C-4 (Highway Commercial Zone). The Tax Parcel ID #s are ED05-077.00-01-12.01-000 and ED05-077.00-01-12.05-000. The owner of record is Deanna Hynansky

Representative: Mr. Gregg Moore, Becker Morgan Group, Inc.

Mr. Albert provided and overview of the application.

Mrs. Townshend stated that legal notice was published in the Delaware State Newspaper on September 4, 2011 and the public was notified in accordance with the regulations.

Colonel Ericson questioned if there were any members with a conflict of interest and there was none.

Mrs. Townshend stated that submitted for the record is the Staff Report, Application, Site Plan, and Photographs. The applicant has also submitted a power point presentation.

Mr. Moore was sworn in.

Mr. Moore stated that he would go through a brief power point. On the first screen was the existing site of the Hyundai dealership located on Route 13 along with a current photograph of the existing building looking back toward the area in question. Next was the submitted survey of the property showing the various commercial businesses located along Route 13. What you will see is that the property line actually runs down the center of what is the access area for both of these two properties (United Electric and the Hyundai dealership) which is a little unusual. You will notice that we hatched that area because it is a shared access area that allows access to both properties. You will also notice that there is parking that is located on the property of United Electric that the Winner Group controls through a lease with that operation. For reference he has also shown on that Plan where they would like to make a building expansion onto the existing Hyundai dealership. Where the parking is located is an area being occupied by the Winner Group.

Mrs. Townshend stated that for the record there is no formal lease; however, there is an understanding between the property owners. Responding to Mrs. Townshend, Mr. Moore stated that this is correct it is a verbal agreement.

Mr. Moore further stated that one of the difficulties that they are having on this site is that we have three (3) dealerships; the Hyundai Dealership, Winner Ford, and Winner Mitsubishi. All of them share in a common service area; however, would like to maintain their separation and maintain their existing operation with signage. The separation is an issue because when the Hyundai Dealership was built, Winner Ford was very clear that they did not want that structure to be any closer than it currently is. It is about 120 feet which is a hardship on their client and an Exceptional Practical Difficulty as well.

Mr. Moore further stated that Hyundai has come back to the Winner Group and indicated in writing that it is very important for them to make an expansion to their building. They made it very clear that they want additional Route 13 frontage and do not want expansion towards the back of their facility nor to the front. They would like it to be along the frontage. The yellow area depicted on the map is setup to be the width of the entrance off of Route 13 and this is the area with the shared access and the red area depicted on the map is where Winner Ford is occupying parking. This has been going on for many years between these two and the two are very good neighbors. United Electric and Winner Ford talk all the time and are very close neighbors. In fact, the property line and the extent of the access and what makes this application unusual is typically the property line would be located not right in the center of the road because typically an entrance to a facility would be wholly on your property or wholly on the other property. This was done probably by the Department of Transportation and perhaps the City predating his time as it goes back about ten (10) or fifteen (15) years. This is something DelDOT occasionally does to minimize entrances onto Route 13 especially around intersections

and suspects that this was done as part of the Site Plan process that required that these two entrances be shared. When an entrance is shared and down the center, the typical situation would be that when the property line if this was our exclusive entrance, it would be moved over. This changes how the property is setup and makes it unique and part of their request. In red as depicted on the map what he is showing is if they were to expand their building in that area they would wipe out about fifteen (15) or eighteen (18) parking spaces. We also have a ramp that goes into the showroom on that side and expanding on the other side over toward the shared area. They would only lose about six (6) or seven (7) parking spaces. In a dealership of this type parking is premium especially parking located directly adjacent to the building and is one of the issues that we have in choosing the expansion area.

Mr. Moore further stated that notice that we have shown in red the area that is being maintained by the Winner Group. Because we are occupying parking which is the shared use access, we are actually forty-five (45) feet with our expansion of twenty (20) feet from what would be the property line under normal situations if in fact this entire entrance was part of the Winner property and not split between the two neighbors. Also notice that the United Electric Building is over fifty (50) feet away from that and a distance back there is a good separation between commercial users.

Mr. Moore further stated that the next slide showed a photograph that was taken this week. You will notice that it is quite clearly visibly from an occupation standpoint the pavement has been maintained by Winner Ford up to this point near the curb and entrances, which is the center line of the entrances and where the property line is. We sketched in the building so that you can see if we expand this building towards this area, we are not infringing on what would be the area that the United Electric is actually using. There is great separation between the buildings and great separation between what would be the property line which would be the shared entrance.

Mr. Moore further stated that from the actual entrance to the additional area where they park in, that is the agreement between the two neighbors that has caused Winner Ford to go out and actually put the blacktop on top to be clear where they are operating and where they are maintaining it. They are meeting the intent of the Code here by having a great separation between buildings and structures which we feel is the intent of the Code to be twenty-five (25) feet.

Mr. Moore further stated that one of the things in the Staff's comments was that if United Electric was actually redeveloped it could be different; however, because this is a shared entrance they would actually keep their separation from the actual entrance location and not infringe on the cross access because the cross access is part of the Site Plan approved between the two. As a result, we would always be meeting the intent of the Code with the separation of at least fifty (50) feet between the buildings.

Mr. Moore further stated that in the back of the building there will be a two story element to the building which is where their offices will be located and that does affect how they can expand this building because of its positioning and structure. The nature of the structure does now allow them to expand the back. They will square off the front of the building and the area where they get the vehicles into the showroom located on the Winner Ford side of the building and also showed the area of where the eighteen parking spaces would be located and lost if they put the

addition on this side of the building. It is somewhat of a practical difficulty for them to relocate and lose all this parking. The fact that they have the wider area and the shared access area and the agreement between the neighbor makes this area the most effective way to make an expansion.

Mr. Moore further stated that they would like to change the appearance on the front of the building so that they get a better presence on Route 13. Hyundai has been very clear that if they cannot do this expansion they believe that they would have to seek another property location and perhaps move out of the City of Dover and off of this site, which would not be a good thing for his client or the City of Dover.

Mr. Moore further stated that the site is exceptionally unique by virtue of how the entrance is setup on this side of the building also in that there are three (3) users on this same property not just one. It would be easier for one user to manipulate parking on site; however, when you have three and Winner Ford has made it clear that they do not want this building projecting closer to them because of the need that they would have with their franchise and separation that makes it a unique situation and exceptionally different from remote single businesses.

Mr. Hufnal questioned whether any correspondence was received by United Electric in support of this project? Responding to Mr. Hufnal, Mrs. Townshend stated that she is not aware of any correspondence; however, there is a representative in the audience.

Mr. Keller questioned that by virtue of your discussion and the presentation of these exhibits he has a different view of a couple of the exhibits. He did not see anything initially submitted regarding the cross access easement. He is familiar with those kinds of requirements to do exactly what you related, to lessen the number of individual entrances on major highways. He also has some concern with failure to have a formalized lease with United Electric as opposed to some use understanding and maybe we could get some clarification on that. If this is truly a cross access easement do you have any knowledge of it being on record?

Responding to Mr. Keller, Mr. Moore stated that it is part of the Site Plan approval process which would require that this be on the property line and to allow access to both users. His belief is that this is something that DelDOT and the City dealt with in the DAC process with the Site Plan. He did not do those plans so he does not have that record and is not sure if the City does. Sometimes they do require that a formal recordation of this be done and at other times they do not.

Mrs. Townshend stated that Staff would have to research this so if you are going to make a decision today we would not have that information. If you were to postpone this application, Staff could get that information. She cannot speak to how it has been done prior to five (5) years ago; however, typically, if a Site Plan includes an easement we do require that the easement be recorded through a record plan sheet and also that other documentation go with that.

Mr. Keller stated that the Engineering Plan submitted relates that "no title examination furnished to or performed by the preparers hereof the property shown here on the subject to any right-of-way, easement, restrictions, etc. as maybe shown or noted in any record public or otherwise, any department regulation, or public agency." It concerns him that if there is such a cross access

easement enforce, he is not aware of any that would have subsequently allowed the construction of an improvement or anything to impair the sole purpose of that cross access easement. Any extension of a building within the easement would impair the free use and enjoyment of public users for the purpose for which the cross access easement typically is required. It is shown on one of the exhibits that this area seems to extend all the way back to SHE Holdings, LLC the property on the extreme easterly end of the site.

Responding to Mr. Keller, Mr. Moore stated that we looked for this when they surveyed the property. There is not a separately recorded easement for what you are referring to. He does not know why this was not done as this situation goes back fifteen (15) to twenty (20) years ago. He can tell you that a lot of times many people believe that the Site Plans for the City of Dover are actually recorded documents and they are not. The Site Plans are actually approved by the Staff and they are kept in the Staff's records and are not recorded and he thinks this can confuse people.

Responding to Mr. Moore, Mrs. Townshend stated that Site Plans themselves are not recorded. Our current practice is that if there are easements we require a Record Plan sheet and it then gets recorded; however, is not the full Site Plan. Whether or not they were doing this back ten (10) or fifteen (15) years ago she does not know and she would venture that we have not been consistent. Frequently, we learn from things and then improve the process in moving forward.

Mr. Keller further stated with the engineering layout and the notation as to it being a cross access easement on the Plan, he would think that this might constitute some constructive notice of the existence of the cross access easement. He has some pause as to considering allowing a structure to be built within such an easement. Responding to Mr. Keller, Mr. Moore stated that we are not actually building the structure in the easement. What we have tried to show is the graphic of the fact that it is there, meaning the shared use. What we are asking to do is add twenty (20) feet to our building that would be wholly occupied on our side of the property and would not go into that area. This would be happening on the area near the parking which Winner Ford is using.

Mrs. Townshend stated as stated in the report and in the application, there would still be a sixteen (16) foot setback from the property line and it does not go to the property line. The required side yard setback is twenty-five (25) feet and what they would be doing is encroaching nine (9) feet into that twenty-five (25) feet.

Mr. Senato stated in looking at this Plan and that easement going in, this is an ingress and egress for vehicles and in looking at this Plan, you would be entering into that area which you are saying is part of your property. He has a problem with this where it is an ingress and egress from Route 13 where it goes into this ingress/egress area. Responding to Mr. Senato, Mrs. Townshend stated that one of the issues is that the precision of the diagram and site layout that is done for this purpose versus what they would have to do at the next stage, which would be Site Plan if they are successful in getting the variance. If a variance is granted, they will need to go through the Site Plan process which will include review by a number of City agencies as well as DelDOT. In terms of the precise location, there may be some requirements to change the circulation and drive aisle configurations that if they were to get to the next step, it would be fine-tuned.

Mr. Hufnal questioned that even though they are within their own boundary lines of the twenty-five (25) feet setback and nine (9) feet within that, what is the requirement of each side from the center line of the road that you must maintain? Responding to Mr. Hufnal, Mrs. Townshend stated that DelDOT would not consider this a road. From the *Zoning Ordinance* standpoint for parking lot circulation you are required to have, if you have two-way traffic, a minimum of ten (10) feet of width per way. If you have two-way traffic you would need at least a twenty (20) feet drive aisle. In many cases the fire lane requirements trump that so you are looking at twenty-four (24) feet in many cases for fire lane. In addition, there may be other things that DelDOT would look at in terms of entrance improvements that may be required in terms of radius and coming on and off Route 13. These are things that would be dealt with in the Site Plan process.

Mr. Senato questioned would it be advisable on what you just said, would this have to be approved or disapproved in order to proceed to the steps that you are referring to? Responding to Mr. Senato, Mrs. Townshend stated that Staff would not take an application to the Planning Commission unless it conforms to the *Zoning Ordinance* requirements. We would not take an application such as this to the Planning Commission without a variance.

Mr. Senato further questioned if a postponement based on upcoming decisions based on your comments, would it be advisable to postpone it and wait on their decision as to what DelDOT's requirements are on that road? Responding to Mr. Senato, Mrs. Townshend stated that the applicant would not be able to make Site Plan application until this issue has been resolved.

Mr. Moore stated back to Mr. Keller's questions, and he is speculating here as he has seen this change over time, back when DelDOT required this to be a joint access it was probably one of the very first ones that they did. The process was not as clean as it is today, where the City of Dover and DelDOT work on this almost all the time. If we are able to come to an agreement, we would then be part of DelDOT and they would see this and would want something recorded or something stricter than what is there today.

Mrs. Townshend stated that she believes the City and DelDOT would likely require with a Site Plan brought forward with improvements on a neighboring property, an easement with that property owner that would be required and recorded.

Mr. Keller stated that he is not inclined to view moving forward with possibly the granting of a variance into an area where it is cited as a cross access easement. If he follows the rational that after the fact we would address the approved encroachment by virtue of the variance as to whether it is possibly violating the cross access easement? Responding to Mr. Keller, Mrs. Townshend stated that what Mr. Moore has said is that the building addition would not encroach into that area. She does not believe that we would be addressing it after the fact. With any Site Plan application it would go through a very detailed review by multiple agencies with one of them being the access from Route 13. It could be that DelDOT requires changes to that entrance configuration and until they make that application, we would not know that. The variance allows them encroachment into the side yard setback it does not speak to any easements. If there are issues that come up when they get to the Site Plan process that say you may have a variance from the zoning requirement; however, there may be other issues that would be addressed during that process. The variance they are looking for is from the zoning requirement it does not relate to

any easement. Those easements would stand alone and the Board of Adjustment does not really get involved in easements because easements are essentially agreements between two (2) property owners.

Mr. Moore stated that there is not a formerly recorded easement. There is joint use of that entrance and if this was done today, it would have been required that the easement be recorded. Responding to Mr. Moore, Mrs. Townshend stated that it would have to be recorded as well as DelDOT also requiring it to be recorded.

Mrs. Townshend stated that the variance being requested is only on the side yard setback and would still need to comply with drive aisle widths, fire lane, and all of those other things. If utilizing the full variance puts them at odds with one of those, that is another issue they would need to resolve. You are not absolving them from compliance with anything other than what they specifically have requested if you were to approve the variance.

Mr. Senato further stated that when they say they would lose sixteen (16) parking spaces on the south side and then you have the east side if you went to that side you would lose sixteen (16) parking also. Why not instead of where you are proposing, put this addition on either the east or south side of the building? It would seem that the only reason you are putting it on the north end would be that you do not want to lose the parking spaces. Responding to Mr. Senato, Mr. Moore stated that they would lose more spaces by projecting closer to Winner Ford and we also have the issue of Winner Ford not wanting the Hyundai Dealership being closer to their facility in terms of the actual structure and that dates back to when that building was built. We believe that the Ford Dealership would object to taking the building in that direction. Going to the east there is a two story component of the existing building which is where their offices are located and structurally we could not connect the showroom because of the nature of this structure. There are stairwells in this area that would not be able to accommodate being moved.

Mr. Keller stated that the depiction on their plan of the existing twenty-five (25) foot setback seems to fall coincidentally with the existing cross access easement. This is his concern about the extension of a proposed structure within that easement area. He does not know how you say there is definitively no easement unless you have done a title search. Responding to Mr. Keller, Mr. Moore stated that they have researched the land records and there is not a separate recorded document that describes this area. This is why we did not show anything on the actual survey. What was shown graphically is more to demonstrate that it is a shared entrance and that it is unique and exceptional. The fact that the Hyundai and the Winner Dealership are using the parking on the opposite side and have been doing so for some time adds to the case in terms of how the property is being used.

Mrs. Townshend stated for clarity, Mr. Keller she thinks that what you are looking at and referencing is that the building addition would go beyond the existing curb line that is coming off of Route 13. Is this what you are referencing? Responding to Mrs. Townshend, Mr. Keller stated that he is looking at the dimensions of the twenty-five (25) foot setback locate on page 2 of the large scale plan sheet which would give the appearance that the proposed building addition would extend approximately nine (9) feet into the setback area. By virtue of the Hyundai submission showing the cross access easement area, the building setback and the cross access easement area appear to be coincidental and are one in the same. This would mean that the

proposed building extension would extend into the cross access easement area regardless of mutual agreements and understandings as to using this area with no outside objection. He is concerned about the propriety of us giving consideration for approval of a variance for the construction of a building extension into an easement area that may otherwise be dedicated for public users.

Colonel Ericson questioned if we could approve this variance provided a proposed extension does not go into the cross access easement area? Responding to Colonel Ericson, Mrs. Townshend stated that you could postpone the decision and have Staff research previous plans to determine if the City has record of an easement and she is not even certain if there is an easement in place. We could look at the last Site Plan for Winner Ford to figure out if in fact there is an easement.

Mr. Moore stated to be clear we already know that there is not a recorded easement. We showed this for graphic purposes as we wanted to make clear that it is a shared entrance and there is a prescriptive use here because both operations have been using this entrance coming in and off of Route 13.

Colonel Ericson opened a public hearing.

Mr. Robert Crawford – United Electric Supply – Mr. Crawford was sworn in. He stated that he came here today to observe what would take place just to make sure that what was presented was what Winner Ford had approached us about which it appears that it is. As was stated, we have been business neighbors for fifteen (15) to twenty (20) years and it has been a good relationship. The reference that was made to the shared parking spaces, it was a verbal agreement; however, we do have a letter before our legal council today where we want to make it a formal agreement going forward. He is a little concerned about the right-of-way easement that has been brought up here today. We are not opposed to this expansion; however, he is concerned with what outcome that it could possibly have. We do not want to lose our access to Route 13 for our business. He is unsure if he is hearing that this is going to be or not be a possibility; however, he would like some clarification on it. The shared access currently as it exists, we share as an ingress and egress for both properties. He would not want to be in favor of this request if it could potentially impact us losing that right-of-way entrance off of Route 13.

Responding to Mr. Crawford, Mrs. Townshend stated that she does not believe that an outcome of this would be the loss of that exit and entrance. What we may want to do, if in fact the Board does postpone this application, is we may want to schedule a meeting with DelDOT to talk about the terms of the Site Plan and what they would be looking for in terms of access. She would be surprised to see a closure of the access especially in an area where there is shared access. Typically what we might be looking at is formalizing it with an easement.

Mr. Crawford stated that this would make them as a company feel more comfortable. There is something now formal in place that would meet current Codes which apparently did not exist back in 1990 when this entrance was put in.

Mr. Allen Perry – Representing the Winner Group (Monchanin Development Group – Sister Company of the Winner Group) – Mr. Perry was sworn in. He stated that they do all

the construction and maintenance for the Winner Group facilities. He would like to address the concern regarding losing the access right-of-way. He believes that the ultimate outcome of this is that DelDOT is going to require some kind of formalized access agreement that will ensure that this access will remain consistent with the way that it is today as a shared access back and forth. He would also like to say that the Hyundai Corporate Manufacturer has told the Winner Group in no uncertain terms that they have to expand this facility if we want to remain a Hyundai Dealership in this market. We have to expand this facility. In that respect, it is a practical hardship for us because the facility on the existing site, if we cannot expand, we would have to move the facility. That is a very large expense constructing the addition to the existing facility in more ways than one. Currently, we enjoy some economies of scale having the joint service facility behind the dealerships. If we were to move to a new location, we would have to have a separate service facility. We would have duplication of services that we do not have to have today. Finding suitable locations for this type of business on Route 13 is not an easy prospect. We are faced with a scenario where we have to do something and would like to do it at the existing location. We feel that it is not an imposition to the community at large. We do not feel that this is inconsistent with the existing property use. We do not feel that it is a hardship on our neighbor and you have heard that they do not have an issue with what we are trying to accomplish. We are trying to take the path of least resistance and expand this facility. When the Hyundai facility was built, the Ford manufacturer dictated that we did not have the building any closer to the Ford building than the southernmost wall of the Hyundai Dealership. Going out to the east we have practical difficulties in that this is the two story portion of the building and we cannot expand a showroom through the two story portion of the building. Also, Hyundai has indicated their desire to either be to the north or the south in order to provide more exposure to Route 13. They are looking for more image, exposure, and presence on Route 13 to the customers in Dover. From a practical point of view, Mr. Keller's concerns of extending into the easement, there really is no easement that they would be extending into. There is a gentleman's agreement between United Electric and the Winner Group that we have shared access. When they go to DelDOT the shared access with the easement agreement is probably not going to extend all the way back to the property in the rear. It will come in about 100-150 feet to provide access for either property so that United Electric can come in on their property, turn to the left, and access their property so that our employees and customers can traverse United Electrics property to egress our property back out onto Route 13. That access agreement, the shared use of the common property between the two property owners will most likely not extend all the way back.

Colonel Ericson stated that there is one more issue in the Staff Report that this Exceptional Practical Difficulty is a routine practice of business. Could you comment on this further? Responding to Colonel Ericson, Mr. Albert stated that one of the things that he had to address in evaluating this report and project is that it is not apparently an adversarial situation in that the property owner and Hyundai have a business relationship there and the practical difficulty in this matter is an extension of Hyundai's wishes. They have dictated their wishes to the property owner so the question becomes if this is a matter of an area variance or is this a hardship or a practical difficulty resulting from an outside factor in this situation. If this situation is extended to other properties where a property or business owner has built to the extent of their setbacks and is a part of a commercial enterprise or franchise, this could give leverage to any corporate franchise to place a restriction on any business or property owner that automatically has to be approved because they are creating a hardship by creating a requirement for the property owner.

The challenge here is if this is a matter of an area variance where the property is insufficiently situated to provide the building and property owner the means they need to convey their business or is this a matter that has been created by the franchiser as a standard course of business.

Colonel Ericson questioned if this would be a self-imposed hardship then? Responding to Colonel Ericson, Mr. Albert stated that he does not know if he would say that it is self-imposed by the property owner; however, in this situation what is the precedent that could possibly be set by allowing a franchise group that oversees a property or business owner to dictate the terms of the property restrictions.

Mr. Rodriguez stated that Mr. Moore has pointed out that in working on the building the sufficiency and where this addition could be made has to be made in that area because of the facility of use of the building. If this is the case, that takes us out of the problem. It is his understanding that this addition for the physical use of the building cannot be located on any other side other than the north side in which we are talking about. Responding to Mr. Rodriguez, Mr. Moore stated that they are restricted and it is exceptional because of the existing building and the two stories and nature of the existing building. We talked about this easement and it is very unusual for it to be this way and takes this out of a precedent setting situation because of the nature of that side of the property that has been used by the two operators.

Mr. Keller stated that the Exceptional Practical Difficulty has to be inherent in the property. Something that came to his mind was the large parameters of the ownership and even if it was not necessarily the ability to simply add onto an existing building, could even a separate standalone office area be constructed within that site. He was in agreement with Mr. Albert that it seemed to be the personal desire of the franchiser to have the addition of that building as opposed to some other solution; however, that there were other seemingly possible solutions and therefore the dilemma was not inherent in the property itself but a personal wish to simply add on in a particular fashion.

Responding to Mr. Keller, Mr. Albert stated that the Staff's position in reviewing this was that some of the sides of the building are restricted. As a standard course of business, typically expanding the building will result in some loss of parking. The north side of the building has some ability to be expanded at the cost of some parking spaces which when he reviewed the plans, was not an Exceptional Practical Difficulty it was a routine difficulty of the property for that expansion.

Mr. Senato stated that this application would not be before us if it were not for the mother company saying they had to change and make more exposure. It is not on the dealership itself adding on their own they have been dictated. The hardship was put on by the mother company which would be Hyundai and not on the dealership. It bothers him that there are a couple of options on the east and south side. You are saying that Ford does not want you any closer is this a verbal or written agreement?

Responding to Mr. Senato, Mr. Perry stated that he did not know the answer to this question. He was not with the company when the Hyundai building was built.

Mr. Senato stated that this is an answer that is very important in his mind because he is looking

for the hardship. If all the information is not here, it is hard to make an open minded, honest, and fair decision. You have a verbal agreement on the road easement which has been happening for fifteen years. The main point is that the hardship was put on the dealership by the mother company and not by the dealership being a separate entity from the mother company making their own decision to expand.

Colonel Ericson stated that he would recommend that they get a motion to postpone this meeting until next month and at that point, we will discuss two primary issues; one, the easement problem, and second, the fact of if it is an Exceptional Practical Difficulty.

Mrs. Townshend stated that with this we would look for the applicant to determine if there is actually a written agreement with Ford.

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

Mr. Hufnal moved to postpone Applicant #V-11-11 located at 591 S. DuPont Highway: Deanna Hynansky pending more information, seconded by Mr. Keller.

Mr. Keller stated that he would amend the motion to include that Staff would undertake examination of any and all Site Plans available, Record Plans, definition of any indicated cross access easements and additionally, any involvement with defined fire lane impact.

Mr. Hufnal stated that he would amend the motion with the above, seconded by Mr. Keller and the motion was unanimously carried 4-0 with Mr. Sheth absent.

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

Meeting adjourned at 11:38 AM

Sincerely,

Diane Metsch
Secretary

City of Dover

Board of Adjustment

ADDENDUM TO STAFF REPORT

October 26, 2011

V-11-11 Winner Hyundai at 591 S.DuPont Highway

Location:	591 S.DuPont Highway
Applicant/Owner:	Deanna Hynansky
Application Date:	August 12, 2011
Present Zoning:	C-4 (Highway Commercial)
Present Use:	Automotive Dealership
Reviewed By:	Michael J. Albert, AICP
Addendum By:	Ann Marie Townshend, AICP

Variance Requested

- **Variance from the side-yard setback for an addition to the principal structure; reduction of side-yard setback from 25 feet to 16 feet.**

BOA Postponement

Following discussion at the Board of Adjustment meeting on September 21, 2011, the Board passed the following motion:

> *Mr. Hufnal moved to postpone Applicant #V-11-11 located at 591 S. DuPont Highway: Deanna Hynansky pending more information, seconded by Mr. Keller.*
>
> *Mr. Keller stated that he would amend the motion to include that Staff would undertake examination of any and all Site Plans available, Record*

> *Plans, definition of any indicated cross access easements and additionally, any involvement with defined fire lane impact.*
>
> *Mr. Hufnal stated that he would amend the motion with the above, seconded by Mr. Keller and the motion was unanimously carried 4-0 with Mr. Sheth absent.*

In accordance with the motion, staff reviewed previous site plan applications associated with the subject property and the adjacent property owned by United Electric. Additionally, staff and the applicant met with the DelDOT Planning Division to discuss the variance request as it relates to site access and circulation.

Previous Site Plan Applications
In review of Planning Office files, staff located the following site plans for the subject property:

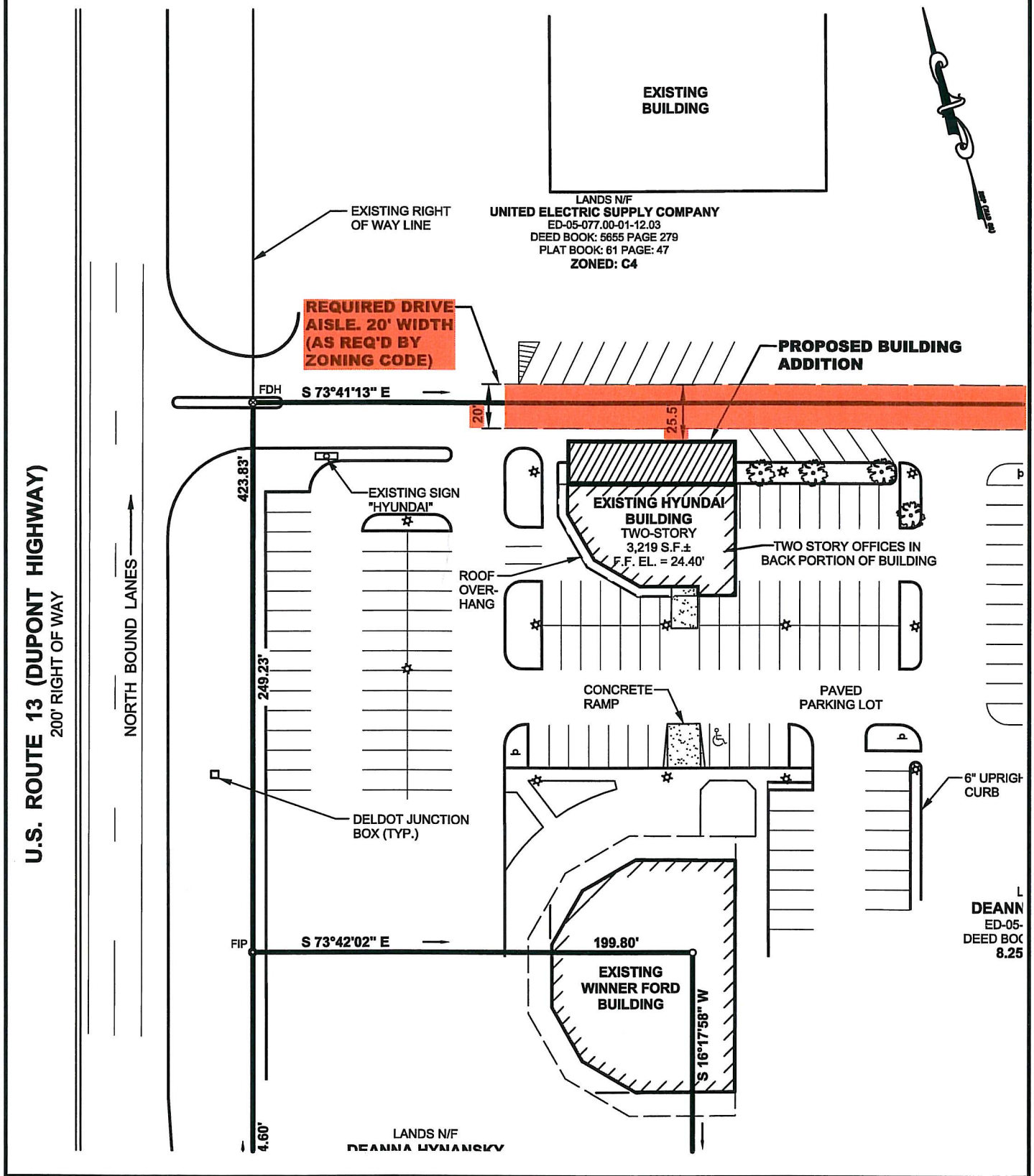
- 1987 Site Plan for Construction of Winner Ford
- 1990 Site Plan (S-90-19) for Construction of Winner Mitsubishi
- 2002 Site Plan (S-02-37) for Building Addition at Winner Ford
- 2008 Site Plan (S-08-34) for Building Addition (Permit Withdrawn)

All of the above Site Plans show the shared access between the subject property and the neighboring property to the north. None of these plans indicate a cross access easement between the properties. A 1986 Site Plan for United Electric (the neighbor to the north) also shows the shared access and includes a note that states, "For cross access easements see plan of Earl D. Smith, Inc. – Commercial Entrance and Drainage Plan – Lands of Max Ambach, et al Revised through 6-23-86." No record of this could be located in the Planning Office.

The Planning Office has been unable to conclusively determine the presence of a cross access easement between the properties.

Fire Lane Access
Fire lane coverage will be reviewed as a part of the Site Development Plan, and compliance with all applicable fire protection regulations will be required regardless of whether a variance is granted. Based on the exhibit provided by the applicant entitled "Required Drive Aisle Exhibit," the width of drive aisle between the proposed building addition and the leased parking on the adjacent property to the north provides sufficient width to meet both zoning and fire lane requirements.

Shared Entrance/Site Access
The subject site is located on U.S. Route 13, to which access is controlled by DelDOT. The Planning Office and applicant met with the DelDOT Planning Division on Thursday, October 13, 2011 to discuss the variance request as it relates to site access and requirements of DelDOT. A letter is attached from Marc Cote` indicating that the action on the variance will not affect the ability of the site access to comply with DelDOT requirements.



LAYER STATE : BOA-EXHIBIT-2

REQUIRED DRIVE AISLE EXHIBIT
PROPOSED BUILDING ADDITION
WINNER HYUNDAI

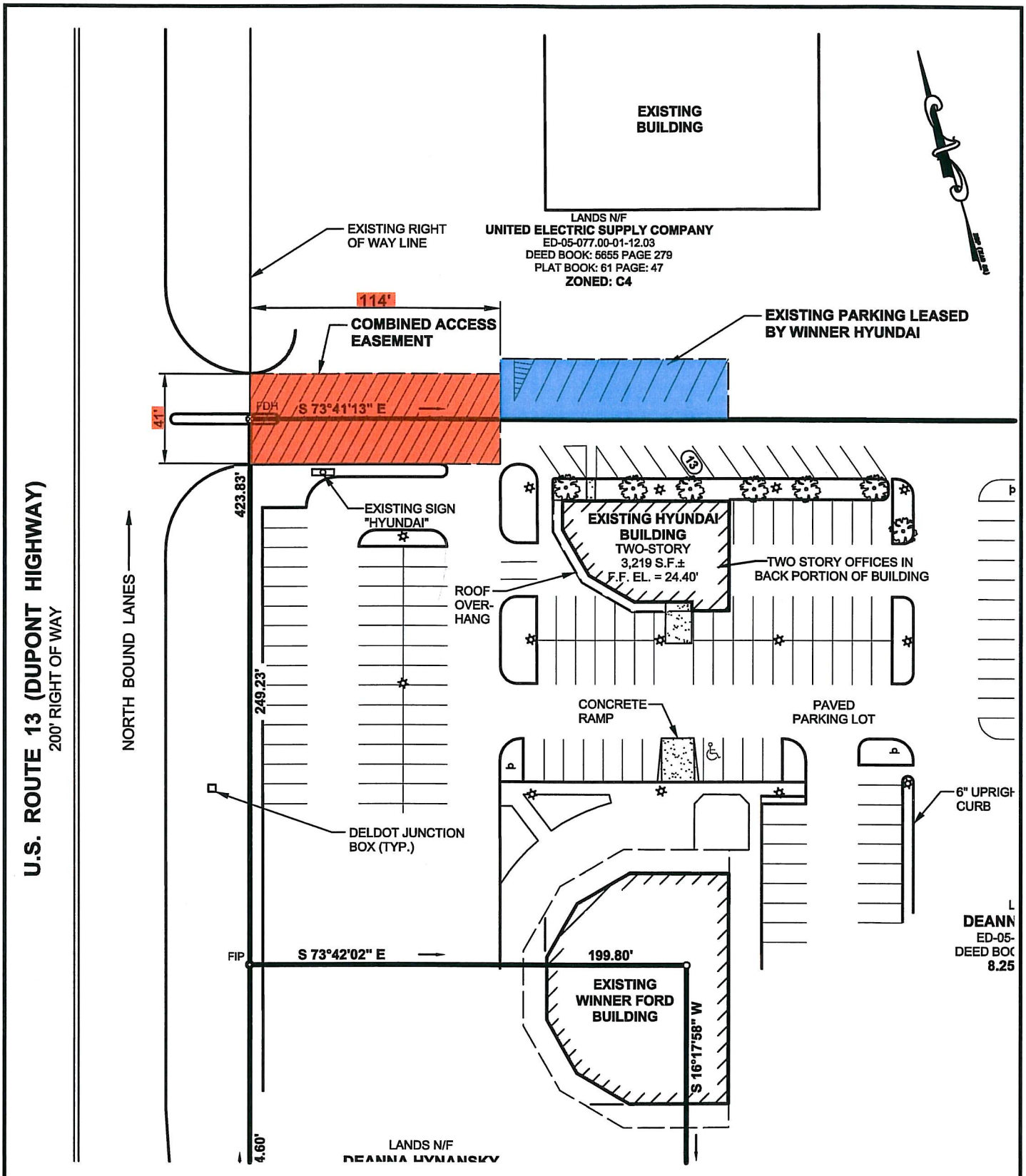
CITY OF DOVER
KENT COUNTY, DELAWARE

BECKER MORGAN GROUP
ARCHITECTURE ENGINEERING
Dover, DE
309 S. Governors Ave.
Dover, DE 19904
Ph. 302.734.7950
Fax 302.734.7965

BMG:	2010124.00
SCALE:	1" = 60'
DATE:	10-13-11
DRAWN BY:	M.J.H.

1

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LAYER STATE : BOA-EASEMENT-EXHIBIT

COMBINED ACCESS EASEMENT EXHIBIT
PROPOSED BUILDING ADDITION
WINNER HYUNDAI

CITY OF DOVER
KENT COUNTY, DELAWARE

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STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

SHAILEN P. BHATT
SECRETARY

October 14, 2011

Ms. Ann Marie Townshend
Director, Planning & Community Development
City of Dover
P.O. Box 475
Dover, DE 19903

SUBJECT: Winner Ford Hyundai Building Expansion
City of Dover, Kent County

Dear Ms. Townshend,

Thank you for meeting with us yesterday to explain the Winner Ford Hyundai building expansion. Based on the plan we reviewed and the information you provided, we see no problem with the Board of Adjustment granting a variance to allow the building to encroach into the 25-foot setback required by zoning. This would not present a problem relating to the combined shared access to the subject site and neighboring property, United Electric. While the details of the combined shared access and cross access easements will be worked out during site plan review, the requested encroachment would not hinder the design of site access consistent with DelDOT standards.

If you have any questions or comments, please contact me at 302-760-2266.

Sincerely,

Marc Cote´
Subdivision Engineer

MC: tsk
cc: Alan Perry, Winner Ford Hyundai
Greg Moore, Becker Morgan Group, Inc.
Mike Henry, Becker Morgan Group, Inc.
Todd Sammons, Kent County Subdivision Engineer, Division of Planning
Julio Seneus, Subdivision Manager, Division of Planning

DelDOT

City of Dover

Board of Adjustment

September 21, 2011

V-11-11 Winner Hyundai at 591 S.DuPont Highway

Location:	591 S.DuPont Highway
Applicant/Owner:	Deanna Hynansky
Application Date:	August 12, 2011
Present Zoning:	C-4 (Highway Commercial)
Present Use:	Automotive Dealership
Reviewed By:	Michael J. Albert, AICP

Variances Requested

- **Variance from the Side-yard setback for an addition to the principal structure**

Project Description:

The applicant is seeking a variance from Article 4, Section 4.15 of the *Zoning Ordinance*, the bulk standard requirements of the C-4 zone related to the side-yard setback. The applicant seeks to construct an addition on to the existing Winner Hyundai structure. The requested variance would create a 16 foot side-yard setback. The property is located at 591 South DuPont Highway.

Adjacent Land Uses

The lands to the north are similarly zoned C-4 uses. The lands to the east and west are zoned IO (Institutional/Office). The lands to the south are zoned C-2A (Limited Central Commercial).

Code Citations

Section 4.15. [C-3, C-4, R-C, IO zones.]

Bulk and parking regulations for service commercial (C-3), highway commercial (C-4), recreation and commercial (R-C) and institutional and office (IO) zones [are as follows]:

	C-3	C-4	RC	IO
Minimum required:				
Lot area			5 acres	
Lot width (ft.)	100	150 per building	250	50
Lot depth (ft.)	100	150	400	100
Front yard (ft.)	25	30	30	20
Side yard (ft.)	20	25	50	10
Rear yard (ft.)	10	10 or equal to bldg. height	50	15 or equal to bldg. height
Side or rear yards which adjoin a residence zone (ft.)	30	30	100	30
Off-street parking				
Per 300 sq. ft. floor area or	1	1½	1	1
Per employee (whichever is greater)	1	1		1
Maximum permitted:				
Building height				
Stories	2	4	10	10
Feet	30	45	130	130
Floor area ratio	0.5	2.0	4.0	4.0
Lot coverage	0.5	2.0	4.0	4.0
Lot coverage				85%

(Ord. of 9-13-1999)

Exceptional Practical Difficulties Tests

Article 9, §2 dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. In order to grant a variance the Board must determine in that exceptional practical difficulties exists.

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.

In order to allow for the proposed addition to the principal structure, the applicant is requesting two variances. Applicant responses to the area variance criteria and the Staff position on those responses is as follows:

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

Applicant Response:
(Please refer to attached documentation)

Staff Response:
Staff agrees with the Applicant's assessment of the nature of the zone. The intended use of the zone is for heavy commercial use and this would not be affected by the proposed building addition.

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

Applicant Response:
(Please refer to attached documentation)

Staff Response:
The area surrounding the Applicant's property would not suffer any ill effects resulting from an approved variance. The area is entirely commercial and institutional. This proposed side-yard variance would not alter the character of the area.

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

Applicant Response:
(Please refer to attached documentation)

Staff Response:
The current arrangement of uses between the subject property and its northern neighbor would not be negatively affected. There is a potential for future effect on the neighboring

property if and when either site were to redevelop. Additionally, the proposed variance would create changes to the existing travel lane on the north side of the building as traffic enters the site from South DuPont Highway.

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:
(Please refer to attached documentation)

Staff Response:
The degree to which the owner can make normal improvements for the use of his property without the granting of the variance is in question. The Applicant refers to the situation as an "exceptional" practical difficulty, however in reviewing the application, Staff finds that the degree of practical difficulty is routine.

The Applicant states that the building is restricted on all three other sides (east, west, south). Staff concedes the fact that the eastern side of the building has a limiting factor due to internal construction concerns related to the second story of the structure.

Where the western and southern sides of the building are concerned, it appears that the structure could be expanded in one or both of these directions. The Applicant references unmarked fire lanes on the west and south side of the structure. There appears to be sufficient room to expand the structure at the expanse of parking along the building. The fire lane need not be altered to expand the structure. The proposal to expand the building to the north as shown on the Applicant's plans would also result in a loss of parking spaces.

It should be further noted that the Applicant could expand towards the north portion of the building and yet still remain within the current permitted setback. A combination of options is available for expansion.

The Staff position for this issue is that the practical difficulties, of which there are several to be considered, are not exceptional but rather are routine in the expansion of any facility when mandated by an outside agency.

Recommendation:

Staff recommends denial of the variance.

In this instance, Staff acknowledges that the variance as proposed would have no effect on the existing neighborhood character. Staff also acknowledges that by virtue of three out of the four criteria, the variance would not cause difficulties for the surrounding properties or place an undue burden upon enforcement of existing zoning regulations. However, the recommendation

presented here is based upon the fourth criteria to which for this case, Staff finds that an increased degree of relevancy should be placed. Staff questions the extent to which an outside organization's requirements may be employed to constitute an exceptional practical difficulty when those requirements are routine in the practice of business.

- Staff finds that the stated reasons do not constitute an exceptional practical difficulty. The problems referenced in the Applicant responses are routine to the practice of operating a commercial franchise.
- There is sufficient room on two other sides of the building and there is some available space on the referenced northern side of the building that the Applicant is not without options in regards to the building addition.

City of Dover

Board of Adjustment

October 26, 2011

V-11-12

Location:	211 Delaware Avenue
Applicant:	Central Middle School
Owner:	Dover Special School District
Tax Parcel:	ED-05-068.1703-66.00-000
Application Date:	September 16, 2011
Present Zoning:	IO (Institutional Office Zone)
Present Use:	School
Reviewed By:	Janelle M. Cornwell, AICP
Variance Type:	Area Variance
Variance Requested:	Allow an increase in sign area of 50.6 SF.

Project Description:
The applicant is requesting a variance from the *Zoning Ordinance* of Article 5 Section 4.7 Supplementary Sign Regulations. Specifically, they are requesting a variance to allow a larger wall sign. The applicant is requesting a 66.6 SF wall sign in lieu of a permitted 16 SF wall sign.

A previous variance for a larger wall sign was granted by the Board of Adjustment at their November 2009 meeting (V-09-15). The variance expired as the sign was not installed within one year.

Adjacent Land Uses
The adjacent properties are a mixture of residential and institutional uses. The properties to the north and across Maryland Avenue are zoned R-10 (One Family Residence Zone).

The properties to the west across Pennsylvania Avenue are zoned RG-1 (General Residence Zone). The properties to the south across Delaware Avenue are zoned RG-1 (General Residence Zone) and IO (Institutional Office Zone), the Murphy School. A portion of the property zoned IO is also subject to the Historic Overlay Zone. The properties to the east across the St. Jones River are zoned ROS (Recreational and Open Space Zone), Silver Lake Park, and 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 adjacent to Residential uses	Urban Local Collector	Monument or post and panel # or	1 per frontage	16 SF	7 ft.	N/A	10 ft.	50 ft.

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 school exists in an established residential neighborhood.

Staff Response:
The property is zoned institutional and office and is surrounded by institutional and residential uses. Signage is determined based on road classification. The property is located on an Urban Local Collector. An Urban Local Collector adjacent to a residential use allows for a 16 SF wall sign.

2. The character of the immediate vicinity and the contained uses therein.
Applicant Responses:
Detached, single family homes and some institutions.

Staff Response:
The character of the vicinity is primarily residential uses with this and another institution in the area. This school has been in existence since the 1920's.

3. Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses.
Applicant Responses:
There would be no serious detriment to the neighboring properties. In fact, the decorative nature of the sign will complete and enhance the school façade, and therefore the architectural quality of the street.

Staff Response:
The increase of the square footage of the sign permitted would not affect neighboring properties. The new addition and the medallion were designed the compliment the historic character of the building and surrounding neighborhood. The building is setback from the right-of-way reducing the visibility of the wall sign.

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 Planning Commission approval and the original variance were based on the design drawings submitted (attached here for reference). There was agreement that this non-illuminated crest was an enhancement to the building. This building is an additional that complements the historic detailing of the existing school and the surrounding neighborhood. The window configuration and brick trim detail has already been installed to accept this building crest. Because of cost issues at the end of the project, the fabrication of the sign was delayed, thus causing the lapse in the variance. This request if to allow the school to complete the design as intended. A smaller sign will be over-scale by the building, and the existing details. Moreover, the building will look unfinished if it is not installed. That will present a practical difficulty for the school, the neighbors and the districts constituents.

Staff Response:
The property is permitted a wall sign. The increase in sign area from 16 SF to 66 SF +/- would be in keeping with the architecture of the building. Due to the length of the building a 16 SF sign would not be effective.

Variance Recommendation:
Staff recommends approval of the sign area variance for reasons as follows:

- The applicant has demonstrated exceptional practical difficulty as the installation of the wall sign at 16 SF monument sign would be difficult to view due to the size of the wall of the building. A 16 SF wall sign would also have less visibility as the sign is setback from the right-of-way.
- The physical attributes of the building, including size of the wall, create an exceptional practical difficulty in providing signage for the site.
- The sign would be in keeping with the scale of the building. A sign of 16 SF would look out of place and not in keeping with the design of the building.
- The sign would be in keeping with the character of the neighborhood as it would provide additional architecture element to the site.

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
_____ Pre-App Date

Board of Adjustment Application

Application Information

Property Address: 211 Delaware Ave

Tax Parcel Number: ED-05-068.17-03-660.000-000

Owner Name: Dover Special School District

Property Zoning: INSTITUTIONAL & OFFICE

Variance (s) Requested: TO ALLOW A LARGER SIGN AREA (69 SQ. FT.) THAN PERMITTED, THIS IS A RENEWAL OF A PREVIOUSLY VARIANCE (V-09-15)

*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.

11-10000012

Area Variance

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

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 ALAN F. NETHEN 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.

Alan F. Nethen — DIRECTOR OF PERMITS — 9/2/11

Signature — Title — Date

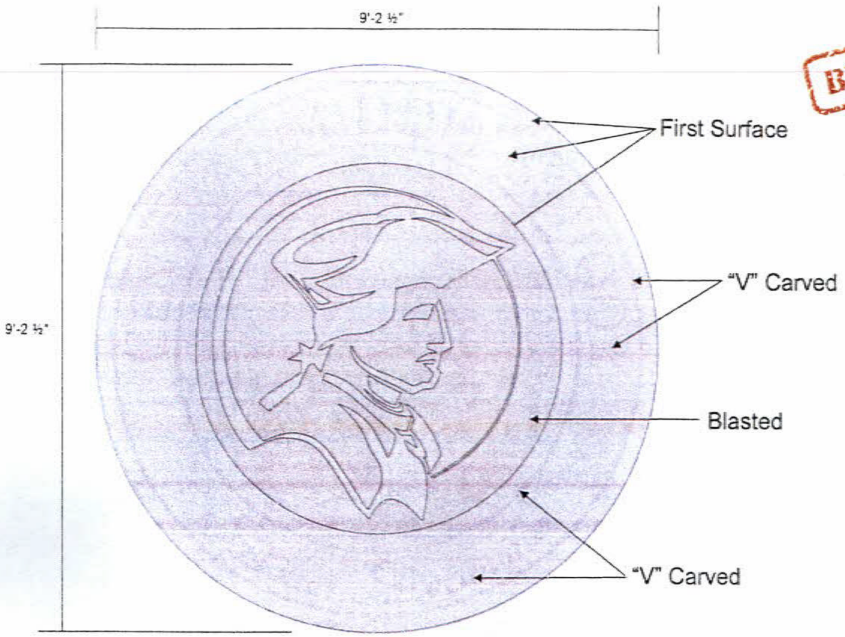

CENTRAL MIDDLE SCHOOL
Dover, Delaware





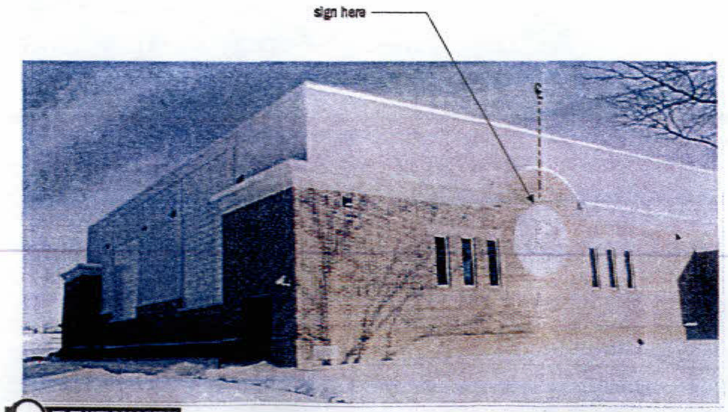



TOBACCO
FREE
SCHOOL
ZONE!



BUYOUT ITEM

ELEVATION DETAIL FRONT
SCALE: ½" = 1'



ELEVATION VIEW

.5" GAP BETWEEN CREST & BRICK TRIM TO BE FILLED w/ BACKER ROD & SEALANT

QTY:1 NON-ILLUMINATED SANDBLASTED & "V-CARVED" HDU SIGN FOAM PANEL w/ 3/16" ALUMALITE BACK FOR SUPPORT

PANEL IS DRILLED & TAPPED TO ACCEPT 3/8" NON-CORROSIVE STUDS. STUDS ARE REINFORCED IN HDU PANEL w/ TWO PART EPOXY

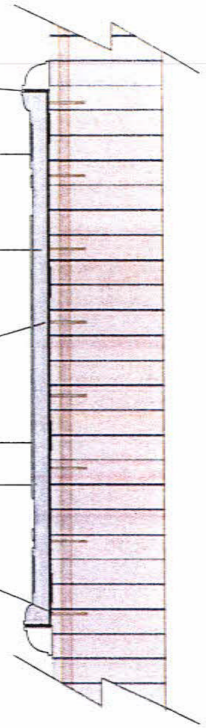
3/8" ALUMINUM STUDS ARE TO BE SET 4" INTO EXTERIOR FASCIA & REINFORCED BY CLEAR SILICONE & BLOCKING

"V" CARVED "ROMAN & SCRIPT" LETTERS RAISED SENATOR LOGO & RAISED TRIM APPLIED w/ TWO PART EPOXY

PANEL IS PRIMED & PAINTED TO MATCH (TBD) CUSTOMER SUPPLIED CAST CONCRETE SAMPLE

EXTERIOR WALL (BRICK VENEER) & BRICK TRIM

STUD-SPACERS ON BACK SIDE OF SIGN FOR ALIGNMENT WITH EXISTING BRICK TRIM



ELEVATION VIEW SIDE
SCALE: ½" = 1'



ELEVATION VIEW
SCALE: NTS
TYPICAL SEAM DETAIL FOR ALUMALITE BACKER

GABLESIGNS
www.gablesigns.com
7440 Fort Smallwood Road Baltimore, Maryland 21226
Phone 410.255.8400 Fax 410.437.5336

CUSTOMER NAME: Capital School District
PHONE NUMBER:
SITE/ STORE NAME: Central Middle School
CITY, STATE: Dover , DE
DRAWING DATE: 05/19/11
SALES REP: MH
ACCT. PROJ. MGR: MMG
QUOTATION NUMBER: 35031-001
COMPLETION DATE:

REVISION HISTORY

REV. #	DRAWING DATE	DRAWING # REPLACED
2	04/16/11	11107sr
1	04/11/11	0141mg
0	6/20/10	0028mm

SIGN TYPE	AMPS	VOLTAGE
AS SHOWN	TBD	TBD

TIME MANAGEMENT DEVICE

PHOTO CELL		TIME CLOCK	X	NONE	

LABOR BUDGET (MAN HOURS)

DEPARTMENT	TOTAL HRS BUDGETED
METAL	
NEON	
VINYL	PATTERNS
ROUTER/ FILE SETUP	
ASSEMBLY	
LETTER	TRIM CAP / R/WAY
LED	
DISPLAY	MASONRY
INSTALL/ DELIVERY	One Man / Two Men / LOAD
CRATING/ PACKAGING	
FINISHING/ PRER	
OTHER	
NOTES	
TOTAL MAN HOURS	

APPROVED FOR CONSTRUCTION
APPROVING SIGNATURE

SIGN TYPE: CARVED & BLASTED SIGN FOAM
QTY: 1

ABHA architects

1621 N. Lincoln Street
Wilmington, DE 19806
(P) 302.658.6426
(F) 302.658.8431

abhagen@ABHA.com
www.ABHA.com

Peter C. Anderson, AIA
Thomas E. Higley, AIA
Michael A. Deptula, AIA
Denis F. O'Flynn O'Brien, AIA
Chandra V. Nilekani, MRAIC

Scott R. Lester, AIA
Carl H. Krienen, AIA

September 13, 2011

City of Dover
Department of Planning and Inspections
P.O. Box 475
Dover, DE 19903

Re: Capital School District – Central Middle School
Signage – Request for Extension of Variance

To Whom It May Concern:

As the agent for Capital School District, I am writing to provide this required information for an extension of the variance for the building sign at Central Middle School.

1. *The nature of the zone in which the property lies* – **The school exists in an established residential neighborhood.**

2. *The character of immediate vicinity and the contained uses therein* – **Detached, single family homes and some institutions.**

3. *Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses* – **There would be no serious detriment to the neighboring properties. In fact, the decorative nature of the sign will complete and enhance the school façade, and therefore the architectural quality of the street.**

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.* – **The Planning Commission approval and the original variance were based on the design drawings submitted (attached here for reference). There was agreement that this non-illuminated crest was an enhancement to the building. This building is an addition that complements the historic detailing of the existing school and the surrounding neighborhood. The window configuration and brick trim detail has already been installed to accept this building crest. Because of cost issues at the end of the project, the fabrication of the sign was delayed, thus causing the lapse in the variance. This request if to allow the school to complete the design as intended. A smaller sign will be over-scaled by the building, and the existing details. Moreover, the building will look unfinished if it is not installed. That will present a practical difficulty for the school, the neighbors and the districts constituents.**

Thank you for your consideration.

Very truly yours,
ABHA Architects

Carl Krienen

cc: Dr. Michael Thomas, Superintendant, Capital School District

Attachment – Design drawings.

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
_____ Pre-App Date

Board of Adjustment Application

Application Information

Property Address: 211 Delaware Ave

Tax Parcel Number: ED-05-068.17-03-660.000-000

Owner Name: Dover Special School District

Property Zoning: INSTITUTIONAL & OFFICE

Variance (s) Requested: TO ALLOW A LARGER SIGN AREA (69 SQ. FT.) THAN PERMITTED. THIS IS A RENEWAL OF A PREVIOUSLY VARIANCE (V-09-15)

*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.**

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 ALAN F. NETHEN 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.

Alan F. Nethen — DIRECTOR OF PERMITS — 9/2/11

Signature — Title — Date

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www.cityofdover.com

Board of Adjustment Application- cont.

Use Variance
A use variance shall be evaluated on the following criteria. **Please state how your request meets each of these criteria.**

1. That there are physical conditions applying to the land or building for which the variance is sought, which conditions are peculiar to such land or buildings, and have not resulted from any act of the applicant or any predecessor in title; and

2. That the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of all reasonable use of such land or building and the granting of the variance is necessary of the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish this purpose;

3. That granting of the variance under such conditions as the board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this ordinance, will not represent a radical departure therefrom, will not be injurious to the neighborhood, will not change the character thereof and will not be otherwise detrimental to the public welfare.

Appeal
Please state the administrative order, requirement, decision, or determination that you are appealing. (Provide a copy of the original decision that is being appealed)

APPLICATION FOR MAILING LIST

Application is hereby made to the City of Dover's Department of Planning and Inspections for preparation of a listing of the names and mailing addresses of all property owners within the specified feet of the Subject Site indicated below, and further described on the attached Plan, as they appear on the municipal tax roll.

SUBJECT SITE:
(Address) 211 Delaware Ave
(Tax Parcel Number) ED-05-068.17-03-660.000-000

OWNER OF RECORD:
(Name & Address) Dover Special School District
945 Forest Street
Dover, DE 19904

This application is made in conjunction with my application for the following on the subject property (Check appropriate item):

____ BOARD OF ADJUSTMENT (200 ft.)
____ ANNEXATION (200 ft.)
____ OTHER- **A fee of $15.00 will be assessed for the creation and distribution of a mailing list, based on the City of Dover's Data Distribution Policy.**
Specify distance_____

Please forward the requested mailing list to the following:

_____ Department of Planning & Inspections Staff _____
_____ City Clerks Office
✓ Other: Send to address below
GABLE SIGNS + GRAPHICS
7440 FORT SMALLWOOD Rd
BALTIMORE, Md. 21226

APPLICANT'S CERTIFICATION

My signature hereon indicates my acknowledgement and understanding of the public notice that will be sent with regards to my application/inquiry.

Applicant's Signature: Alan Mathers

Date: 9/2/11

For Office Use Only
Date Prepared:_____ Paid:_____
Preparer's Initials:_____ File Number_____
Date Sent:_____
Sender's Initials:_____

Dover Planning Form Created 3/7/06

bing Maps

211 Delaware Ave, Dover, DE 19901-3851

My Notes

FREE! Use Bing 411 to find movies, businesses & more: 800-BING-411



Crest for variance



Bird's eye view maps can't be printed, so another map view has been substituted.

letters

0 City of Dover, P 7 Department of Plan. g and Inspections Area Variance P.O. Box 475, Dover, Delaware 19903 Use Variance (302) 736-7010
Fax: (302) 736-4217 Appeal www.citvofdover.com Pre-App Date Board of Adjustment Application
Application Information
Property Address: f itztoose. gat
Tax Parcel Number: ap--05-owi4ri-03 - 6(90 . Owner Name: tella spatial, ...S,fritiot
Property Zoning: tusil 0 at- cf 0 cc; (op,
Variance (s) Requested:1r; A t Lob.) /4 in,cesil CA fu g 1244 (6,9 5. cr.) ".1
Penevi-r-ri_RO 174 TS is A Ilexte-24.4.t. or 424+-043. ly Asc,ir (1,- 09 -
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the provisions of the zoning ordinance.
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a
$iguature
I ALA,iC hien, CO 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.
41an Signature
Olatee-ren OF lasvrr 9/01
Title Date
BOA Application -Adopted 11-3-10