CITY OF DOVER BOARD OF ADJUSTMENT AGENDA

Wednesday, September 19, 2018 at 9:00 AM

City Hall, Council Chambers 15 Loockerman Plaza, Dover, Delaware

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES of July 18, 2018 Meeting

COMMUNICATIONS & REPORTS

1. Reminder: The next Board of Adjustment regular meeting is scheduled for October 17, 2018 at 9:00am in the City Council Chambers.

NEW BUSINESS

Applicant #V-18-06

100 Enterprise Place. Silver Lake Realty, LLC has requested a variance from the requirements of the *Zoning Ordinance*, Article 3 §20.54 and Article 4 §4.16 pertaining to the maximum lot coverage of parcels in the IPM (Industrial Park Manufacturing) Zone. Specifically, the applicant proposes to add 24 parking spaces, increasing the impervious lot coverage on the site from 64.44% to 66.03%. The maximum lot coverage for the IPM zone is 65%. Subject property is zoned IPM (Industrial Park Manufacturing) Zone. Tax Parcel is ED-05-076.15-01-01.00-000. The owner of record is Silver Lake Realty, LLC.

Applicant #V-18-07

1240 McKee Road. Michael Graham on behalf of PAM Dover has requested a variance from the requirements of the *Zoning Ordinance*, Article 5 §4.7 pertaining to the maximum size of permitted signs. Specifically, the applicant seeks to permit one (1) wall sign at a size between 352 SF and 424 SF, in lieu of the maximum 32 SF permitted. Subject property is zoned IO (Institutional and Office Zone) and subject to the COZ-1 (Corridor Overlay Zone). Tax Parcel is ED05-067.00-01-33.00-000. The owner of record is PAM Dover DE IRF LP.

ADJOURN

29 Del. C. § 10004(e)(2)

THE AGENDA ITEMS MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

CITY OF DOVER BOARD OF ADJUSTMENT MINUTES July 18, 2018

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, July 18, 2018 at 9:00 A.M. with Chairman Sheth presiding. Members present were Chairman Sheth, Mr. Keller, Mr. Hufnal, Colonel Ericson and Mr. Senato.

Staff members present were Mrs. Savage-Purnell, Mr. Diaz, Mr. Swierczek, Mr. Hugg, and City Solicitor Mr. Rodriguez.

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the agenda as submitted. The motion was seconded by Mr. Senato and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF JUNE 20, 2018

Mr. Keller moved to approve the meeting minutes of June 20, 2018 with minor corrections. The motion was seconded by Mr. Senato and unanimously carried 5-0.

OPENING REMARKS CONCERNING APPLICATIONS

Mr. Dave Hugg, Planning Director stated that the meeting today will be conducted in accordance with the motion of the Agenda. There are two (2) applications on the agenda under New Business. Each Application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. If the Board needs to consult the City Solicitor, they will recess to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

All public notice for the new applications on this agenda was completed in accordance with Code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

NEW BUSINESS

Applicant #V-18-04.

550 Bay Road. Bay Road One, LLC has requested a variance from the requirements of the *Zoning Ordinance*, Article 4 §4.15 pertaining to the minimum lot width of parcels in the C-4 (Highway Commercial) Zone. Specifically, the applicant proposes to subdivide the parcels with an overall lot width of 335 feet into three (3) lots of 54.34 feet, 130.24 feet, and 150.34 feet width, as measured at the street frontage of Bay Road (and 54.34 feet, 132.05 feet, and 148.62 feet as measured at the setback line). Subject property is zoned C-4 (Highway Commercial Zone). Tax Parcels are ED-05-077.00-01-10.01-000 and ED-05-077.00-01-11.00-000. The owner of record is Bay Road One, LLC.

Exhibits for the Record: Staff Report, zoning exhibit, and statement and plans submitted by the applicant. Legal Notice was published in the Delaware State News on July 8, 2018. The public was notified in accordance with regulations.

Mr. Swierczek gave a summary presentation of the Variance Application Request.

Colonel Ericson asked Mr. Swierczek if he could explain as previously mentioned the restrictions that would create a hardship or exceptional practical difficulties. Mr. Swierczek replied that the applicant stated in their application that the intent was to maintain control of the entrance drive because they are developing the office building at the rear of the site while being able to sell the front two parcels. They wanted to sell onto another developer because they would not be developing the sites themselves. They did not want to leave the entrance drive to the office building off Bay Road to be up to any potential future development especially since none is lined up at the moment.

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

Representative: Mr. Alex Schmidt, Century Engineering

Mr. Schmidt was sworn in by Mr. Rodriguez.

Mr. Schmidt testified that he is present today to ask for a variance on the lot width requirements for three (3) Lots on the 550 Bay Road subdivision. The site will be the future home of Century Engineering. The first building of three (3) potential buildings on the site is currently under construction. That is the building that Century Engineering will be moving into. Century Engineering has been in the Dover area for over 30 years. He also mentioned that Mr. Swierczek added an excellent summary and he would just add a few more things. He stated that Century Engineering sees themselves as the anchor tenant. The entrance drive that comes into the site is what Century Engineering wants to keep in their possession as part of their parcel where their building is located. They want to make sure that the trees, sidewalk and lights are maintained. Their biggest concern is if they are not able to receive the variance that the owner of the property can move forward from an economical standpoint by subdividing and placing the property line down the middle of the boulevard. Half of the boulevard will belong to one front parcel owner and the other half will belong to the other front parcel owner. We can put easements in place to make sure we continue to have access, but their concern is depending on how robust the easements are and how good their lawyers are. Potentially, you could have another developer come in and buy one of the front parcel sites, chop up the entrance boulevard, turn it into a drive isle through a parking lot and as long as they meet the conditions of the easements that would be allowable. Century Engineering would like to keep the entrance as a boulevard. They designed it to have more of a high-end office park feel. Century Engineering wants to make sure it keeps that atmosphere. The best way to do that is by maintaining ownership of that entrance boulevard, be able to tell other developers where their entrances go, what part of the sidewalk can be taken out, what lights can be moved, etc. That is the primary reason for their request today.

Mr. Hufnal questioned whether the applicant had considered dedicating the street. By keeping

the street, the applicant would need to maintain it with snow removal and repairs. Also, by keeping the street and if the building was sold within 10 years from now it is going to be very difficult in his opinion (because he used to be a realtor) to sell the property to someone who is going to have to maintain over 350-feet of road to get to the highway. Why did you consider retaining that instead of dedicating it and have the City or State take care of the property? Mr. Schmidt replied that the concern with dedicating it is having setbacks from the rights-of-way that would be set back further than where they are proposing to put the property lines. That would decrease the amount of developable area in the front two (2) parcels. As far as the concern of selling the building in 10-years, their hope is that they will be there for another 30 plus years and beyond.

Mr. Hufnal mentioned if the street was dedicated the setbacks looks fine and there is plenty of frontage that the applicant would not have to come to the Board of Adjustment for a variance. Mr. Schmidt replied that he understood that the front yard would be on the street. He asked if the Planner would confirm. Let's say that the street was turned over to DelDOT, they would consider it a local street and require a 40-foot right-of-way. The property line would then have to be 40-feet off back off the center line and the setbacks would be determined from there. The way Century Engineering is doing it, they set the property line right behind the curb on the one side and the setbacks start from that point. The discussion came up, but not a lot of thought was given to it just because in their mentality Century Engineering is not going anywhere, so they did not want to turn over the road. Mr. Swierczek added that the application that went before the Planning Commission for the entrance drive as approved, that road would not meet standards if it was to be a City or DelDOT maintained road. It would have to be improved or enlarged. As it currently stands, the project does not have that in its scope.

Mr. Keller asked for clarification if Mr. Schmidt was an employee of Century Engineering? Mr. Schmidt replied that is correct.

Mr. Keller asked if Mr. Schmidt had any relations with Bay Road One, LLC? Mr. Schmidt replied that Francis X. Smyth who owns Century Engineering is also the owner of Bay Road One, LLC. Mr. Schmidt stated that he did not have any personal or contractual relationship with Bay Road One, LLC, but he works for the same person who owns Bay Road One, LLC.

Mr. Keller stated that he wanted to be clear that Mr. Schmidt was not technically a managing member or officer of Bay Road One, LLC. Mr. Schmidt replied that is correct. Bay Road One, LLC contracted them to do the design, so they have a relationship that way.

Mr. Keller mentioned for the record that he recalled a similar question a year ago when Mr. Schmidt first appeared before the Board of Adjustment. Perhaps as a technicality, but the intention of Bay Road One, LLC to lease to Century Engineering the site that is currently under construction. Mr. Schmidt replied yes.

Mr. Keller expressed some interest regarding Mr. Hufnal's question about the dedication. It would be a 54-foot right-of-way if you held the 54 width all the way from Bay Road back to the development site. The exhibits indicated a 30-foot travel way as proposed for the boulevard entrance. Mr. Schmidt replied that he believed it was reduced to 28-foot. It is wider than the

typical which is correct.

Mr. Keller mentioned that he was not for sure in his mind if this request rises to an exceptional practical difficulty, but is an unnecessary hardship perhaps to the degree by which that you might otherwise have to consider a street design that would accommodate the requirements of the City and/or State for a dedicated right-of-way.

Mr. Keller asked about the two (2) proposed sites that are currently being planned out or rough graded. Mr. Schmidt replied that the sites are currently being rough graded. They do not have anyone contractually signed. They have had some interest and most of the people who have expressed interest mentioned that they would rather own than lease. Therefore, they are now trying to subdivide the sites so that they can sell them.

Mr. Keller asked the applicant if Bay Road One, LLC would contemplate a sale of each of the sites and/or leasing of the sites. Mr. Schmidt replied that the goal is to sell both sites.

Mr. Hufnal questioned the intent to sell both sites and if there would be a problem selling the sites with people driving onto a private road rather than a dedicated street. Mr. Schmidt replied that they would place easements for anyone that purchases the side lots and give them access. It is not uncommon for a business park. For example, there is a business center that used to contain Value City, Buffalo Wild Wings and Golds Gym. He was not sure if each of those entities owns their own building, but none of them own the right to the parking lot. The rights to the parking lot is owned by the development corporation. All of them are operating through easements for access. They will have a similar structure on their site as well.

Chairman Sheth asked if he understood that by not dedicating is helping financially. Mr. Schmidt replied that he did not know if it was more of a financial cost to the owner not to dedicate. As it was mentioned, the owner is responsible snow removal, maintenance and the upkeep of the entrance boulevard. The potential cost may be for example if they wanted to dedicate it to DelDOT, they would then ask for shoulders which they don't have full width shoulders on the street. This would require enlarging and increasing the cost of the initial construction. To answer the question, it may be a wash.

Chairman Sheth asked if that was the reason they do not wish to dedicate. Mr. Schmidt replied that they would rather not dedicate the street. They would rather retain control of the street themselves.

Mr. Hufnal asked if the site was going to be kept private and if he was going to use public utilities on the properties? Mr. Schmidt replied that they have public utilities coming to the site. There will be easements for certain utilities as required by the City, but others will be private once they get into a site.

Mr. Hufnal asked if you have a watermain that breaks you will be responsible for the repairs since it is a private road. Mr. Schmidt replied he understood that the City owned the waterline up to the meter (each building will have its own meter) so depending on where it breaks, they may be responsible, or the City may be responsible. If he is incorrect about that, please correct him.

Mr. Hugg commented for clarity that this arrangement is not uncommon for commercial and industrial facilities. The road that leads into the Dover Mall for example is a private road. It is not necessarily mandated (if you will) or traditional that in every situation an entrance road be dedicated or maintained by the City or the State. What the applicant is proposing is not precedent. It has been done for other numerous developments. There is no hard guideline. To answer the utility question, it is pretty much a site by site decision. The applicant is correct in saying the utility lines are typically owned. Once completed whether it is a private street or not it is dedicated to the City and becomes the City's responsibility for maintenance and obviously for any repair. There is no hard-fast rule that says that any street created like this has to be dedicated to public use. If you were not subdividing these properties, this would not be an issue. Mr. Schmidt stated correct. Mr. Hugg went on to say that it would strictly be by a virtual decision to create saleable Lots that the ownership of the road and the width of the Lots themselves becomes an issue. He asked the applicant if this was correct? Mr. Schmidt replied correct.

Mr. Keller stated that he presumed that still with the utilities serving that even Century Engineering current site building under construction, any of those public utilities would require easements to access the site. That stands as a given. Mr. Hugg replied that any utility services would exist if they are not in a public right-of-way. This would exist by permanent easement and be set aside for that purpose. Mr. Keller stated correct.

Mr. Keller stated that he is aware of Mr. Hugg relating to the Dover Mall etc., those feeder roads if you will (entrance road) that is not uncommon at all. He would presume that whether by a lease or sale, the two (2) Lots in the front would have to be coupled with a maintenance or cross easement usage for utilizing the private boulevard road. Whether leased or sold there would have to be some agreement enforced coupled with the deed transfer or lease to allow them. Mr. Schmidt replied correct. There is already a cross access easement in place over the entrance boulevard that was required by DelDOT to allow for future connections to the site to the south of them in case it would ever get developed; that kind of added to the complexity. If they then have to break the entrance boulevard and ownership over two (2) Lots and then that cross access easement needs to be redone and recorded over those two (2) Lots and they would have to record a maintenance easement for themselves over those two (2) Lots. They would also have to record restrictions on those two (2) Lots as to where they can place entrances which can become bit of a pain as you can imagine.

As Mr. Keller referred to the advisory comments "In order to create the series of three (3) Lots, an application for a Minor Subdivision Plan for review by the Planning Commission is required," he asked if there was any timetable or anticipated problems with the filing or complexity which the Board should be made aware of? Mr. Swierczek replied not to his knowledge. It was his understanding that the applicant was waiting for the decision from the Board of Adjustment before filing an application for the Minor Subdivision. Pending the Board's decision, they could proceed normally with that application.

Mr. Keller asked Mr. Swierczek if he had any idea how the Minor Subdivision Plan may look. He states that in thinking that there has been perhaps some discussion with the applicant regarding the Minor Subdivision Plan requirement. Mr. Swierczek replied that the format of the

Minor Subdivision would be along the lines of the application submitted to the Board. As it stands right now there are two parcels on the site. What we see is Lot 1 and there is a Lot 2 at the rear of the building which is the stormwater management area. The applicant in the Minor Subdivision would combine that stormwater management area into the main Lot that would contain the entrance drive and the office for Century Engineering. Lots 2 and 3 will be the two (2) parcels along Bay Road for the separate parcels. Mr. Schmidt added that he had a meeting with Mr. Swierczek and Mrs. Melson-Williams prior to filing the Board of Adjustment application. In the meeting, the two (2) alternatives were discussed for the doing the subdivision. It was agreed that it is worth their time to ask the Board for the variance so that they may retain control of that boulevard. If they are not granted a variance, they could still subdivide but they would lose control of the boulevard and they would have to go through the process of establishing easements and maintenance agreements, etc. Mr. Hugg mentioned to clarify that Staff could not recommend approval of a subdivision that created nonconforming lots that did not have a variance associated with them. It is a little bit of a catch 22 and the proper process is what is being done today by coming before the Board of Adjustment to seek a variance for the Lots. Following this Board's action, if desired to go forth with the subdivision, it would be creating Lots that had variances already approved to go with them.

Mr. Keller asked if it would not necessarily impede a leasing of the two (2) sites as opposed to a sale. A sale of the site would require a separate distinctive Lot layout, description and deed transfer, but the leasing of the site would not require a change in the title. Mr. Hugg replied that the conformity of the Lot from a legal standpoint would not necessarily be a factor in a lease. It would be leasing a piece of property subject to whatever restrictions and requirements that are involved. There will still probably be a lease document that would have the meets and bounds description of the areas being leased and how it is going to be used, etc. Those are matters that are above and beyond the involvement of the City. A sale would obviously involve a survey, deed and all the requisite requirements.

Chairman Sheth asked by dedicating the streets if it would avoid all issues raised by Mr. Keller. Mr. Hugg replied that he was not sure that he would necessarily agree that it would avoid all the issues. He thinks the bigger question would then become the request to dedicate the street that does not meet the current City standards. While you may solve one issue he is not sure that you would not end up with a development that was very much different, perhaps less developable, and certainly not as easily brought into the basic standards of the *Zoning Ordinance*. You would go from a private cartway to a public street. The public streets standards are much more stringent or have a much higher level of requirements. Mr. Schmidt replied that is correct. He also mentioned that just thinking about what would occur if that was done, then the entrance boulevard would then become the entry road. It would change the setbacks because the front yard setback would then be based off the boulevard and not Route 113. As a developer, he would make the argument that he no longer needs the arterial street buffer because he does not have a front yard on Route 113. It does have an impact on how the site gets laid out. He honestly did not think it would be a benefit to do that.

Chairman Sheth mentioned that it looks like all the problems are the owners. The granting or not granting a variance is the only problem for the Board of Adjustment.

Mr. Keller mentioned that the applicant is fully aware of their obligations after the fact whether the Board grants a variance or not. In the ongoing care control, maintenance upkeep, snow removal, pot hole repair, etc. as pointed out by Mr. Hufnal will be upon the obligation of the owner, Bay Road One LLC. Why there is some advantage to be gained by the variance is because it sets the stage for a more probable sale of the Lot as opposed to simply a leasing. In his mind, as mentioned by Mr. Hugg, it is not uncommon for a number of cross easements across the City to facilitate one entrance area from a public street up and down Route 13. There are a number of situations such as that. He knows from old DelDOT experience they were always trying to get as many cross easements as possible so as to minimize the number of direct access points to US 13, for example.

Mr. Senato mentioned that his concern with private roads (Blue Hen Mall, Dover Mall, other private residential areas) over the years it then eventually lacks the care that was promised initially. This seems to worry him coming from experience in driving to the different areas when they were brand new as compared to 10-20 years later. If anything happens such as pot holes, he just does not have the belief that these roads will be maintained including this one as time goes on.

Mr. Schmidt responded by stating that all he could offer is that they intend to, but anything can happen as mentioned by Mr. Hufnal. To not receive the variance then that maintenance burden would lie with the two other property owners whom we do not know at this time. They could be owned by entities out-of-state, at least with them, they are here in the area. If there is a problem, you can come to them or call them and tell them about the complaint.

Mr. Senato mentioned that his concern was immediate, not when all of this is completed. That is the reason he mentioned that there is no guarantee these roads will be maintained.

Colonel Ericson mentioned that this may be true, but it is not the Board's job to speculate about the future. That is for the City to manage with these people. It seems to him that this is a common solution, this is what they want, and the applicant has given the Board a lot of reasons why it is best to maintain in their control. The system looks like it will work for the City and the developer. Unless he hears something else, it seems like a reasonable request.

Mr. Keller added the Board is referring to this as a public road, nonetheless, it is the applicant's driveway to the Century Engineering site. He would imagine during the course of the applicant's tenancy the driveway would be maintained in a state-of-the-art fashion.

Mr. Keller asked a question regarding the rear Lot. On the exhibit, there is a vacant Lot behind the proposed office building (Century Engineering). He thought a year ago that it was laid out as a contemplated warehouse site; he wanted to know if that had changed? Mr. Schmidt replied yes, it has. They initially did the concept layout (which included the warehouse) then they had received the geotechnical results back that indicated they had good soil that was suitable for infiltration. Further on in the process, they found out that was not the case and that Lot was then turned into a stormwater pond. One of the other parts of this is that they are going to include the stormwater pond into their building Lot. Again, all of that falls under the same ownership.

Mr. Keller asked if it would be for water retention. Mr. Schmidt replied yes.

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

Chairman Sheth opened the public hearing.

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

Chairman Sheth questioned if there was any additional correspondence for the record. There was no other correspondence.

Colonel Ericson moved to approve variance application V-18-04 based upon the report by the City and the testimony given and that this is a common solution and should be approved. The motion was seconded by Mr. Keller. The motion unanimously carried 5-0.

Applicant #V-18-05

1424 Forrest Avenue. Jonathan M. Baske on behalf of McDonald's has requested a variance from the requirements of the *Zoning Ordinance*, Article 5 §4.7 pertaining to the maximum number and size of permitted signs. Specifically, the applicant seeks to permit a total of four (4) wall signs in lieu of the allowed quantity of (2), and to permit a wall sign at 32.8 SF in lieu of the maximum 32 SF permitted. Subject property is zoned C-2A (Limited Central Commercial Zone) and subject to the COZ-1 (Corridor Overlay Zone). Tax Parcel is ED-05-076.10-02-53.00-000. The owner of record is McDonalds Real Estate Company.

Exhibits for the Record: Staff Report, zoning exhibit, and statement and plans submitted by the applicant. Legal Notice was published in the Delaware State News on July 8, 2018. The public was notified in accordance with regulations.

Mr. Diaz gave a summary presentation of the Variance Application Request.

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

Representative: Mr. Chris Mondoro, Bohler Engineering and Mr. William Stout, Owner Operator at McDonald's.

Mr. Mondoro and Mr. Stout were sworn in by Mr. Rodriguez

Mr. Mondoro testified that the store has been in the community for 30 plus years. The store has been on Forrest Avenue site for a number of years with the fixture and red mansard roof with white striping.

Mr. Stout testified as mentioned by Mr. Mondoro that the store has been in the area for 30 plus years. They are the local owner and operator franchise of McDonald's. We operate twelve (12) locations throughout Delaware. We have a need to reinvest in this particular store to make it look

very nice. The plans show where modernizing the facility not only for the customers, but for the folks that work for McDonald's.

Mr. Mondoro mentioned that he spoke with Mr. Diaz before the meeting and he handed out one additional exhibit. The exhibit shows a more comprehensive comparison of the existing and proposed conditions. Mr. Diaz did not have the exhibit upon his review, but upon the receipt of his letter we wanted to investigate further to provide additional information for the Board of Adjustment. At the top of the exhibit, you will notice the proposed conditions. They have a number of signage packages and the national company wanted to develop a consistent look across the board. The signs have architectural feature walls where the ends are located, something that was designed in concert with each other to create a more modern feel and provide a unified look to the building. Besides getting an update, the existing conditions on the lower pictures you will notice the red mansard roof with white striping iconic of the McDonald's of the past. It's something that his client is going to reinvest in and modernize. This is very much a fix in the community, something that the City and everyone else in the community is used to seeing for a number of years. The purpose here is that they have shown two (2) views: one southeast from Forrest Avenue and one southwest from the Dairy Queen entrance. As mentioned by Mr. Diaz, there are two (2) variances being requested today: one for the size of the sign for the McDonald's (red McDonald's word) and two (2) for the quantity of signs. As mentioned by Mr. Diaz in the current zone based upon the residential located across the street, it is a 32-square foot maximum. We are proposing a small sign that McDonald's offers. It is one that they have designed in concert with this architectural to be a certain scale proportioning between the lettering and that comes in suddenly over 32.8-square foot based on a square rectangle around the building. The existing sign is more than double of what they are proposing today. The existing sign is 67-square feet and they are proposing to reduce the sign greater than 50% to 32.8-square feet. It is a great improvement than what is out there today as far as the actual sign that you are seeing from the road. Overall, they looked at the existing sign and wanted to make it better than what is currently there today. They are also proposing four (4) wall signs total which include (3 "M" signs). There is one "M" located on the front of the building, one on the eastern frontage, and one located on the western elevation. Looking at the front of the building that "M" is 14-square feet and the McDonald's is 32.8-square feet. Both of the signs combined are 46.8-square feet which is well below the 67-square feet that is currently on the face of the building. The other two (2) "M's" are located on the eastern side of the building, the "M" is 14-square feet as well, whereas the existing is 25-square feet, which is also a reduction in the size along that side of the building. Today, you will notice that there are also three (3) window signs that are being proposed in lieu of wall signs. This is something McDonald's have not opted for because they feel that the design of this building with the architectural feature walls benefits more from a wall mount to a window sign. The last sign is proposed on the drive-thru side at the end facing in that direction.

Mr. Hugg asked if the applicant was going to continue to use the window signs, would they be a part of the Final Plan? Mr. Mondoro replied that the window signs were not going to be a part of the Final Plan and the square footages were not considered.

Mr. Mondoro stated that overall, if you look at the existing building that is currently there and knowing that the window signs are separate, but the overall building package includes the wall signs and the window mounted signs that is 167-square feet total. They are proposing 92-square

feet which is a large reduction in the number of current existing signs.

Mr. Hufnal questioned if the three "M's" were the new signs that were 14-square feet each? He asked what was the fourth sign? Mr. Mondoro replied that the fourth sign is the written McDonald's on the front of the building.

Mr. Hufnal questioned if those buildings were exactly like the ones that were currently built in Smyrna and Dover on Route 13? Mr. Mondoro replied that he was not sure if they are exactly the same. This McDonald's is a proposed remodel. Mr. Stout replied that the restaurant in Smyrna is an early iteration of this. Now, we are actually going with less signage than what they have in Smyrna, but it flows with the style and architecture of the restaurant.

Mr. Hufnal mentioned that he looked at both McDonald's and although he did not measure them, the format and the site looked the same as the proposed McDonald's. Mr. Stout replied yes, very similar. We have some stone architectural elements in Smyrna and some tile and different colors on the outside of the proposed McDonald's.

Colonel Ericson mentioned that the Smyrna McDonald's really does not apply to us because it is not in the City of Dover limits. He asked how the applicant got permission for the four (4) signs at the other McDonald's in Dover City Limits. Mr. Stout replied that they have two (2) restaurants in Dover. Scarborough Road and North DuPont Highway are a different owner operator; therefore, he would not be able speak to them.

Mr. Keller asked if the one that Colonel Ericson was referring was located near the St. Jones River Bridge crossing on U.S. 13 South DuPont Highway. Mr. Stout that they are responsible for the one on Forrest Avenue and on Route 10 near the Dover Air Force Base. The restaurant on Route 10 near the Dover Air Force Base has not been upgraded.

Mr. Hufnal asked if the applicant owned the restaurant by the St. Jones River. Mr. Stout replied no.

Mr. Keller asked Mr. Hufnal if he was relating to that location and if it was a more modern configuration currently. Mr. Hufnal replied that it looks just like the formation of the one on the exhibit as well as the one in Smyrna except for the fact that he cannot measure the signs, but it looks like the same format that is being presented today. The building in Smyrna has been remodeled.

Colonel Ericson asked Mr. Diaz if he had any information on the restaurants that are built with the sign configuration and who approved it? Mr. Diaz replied yes. There is one McDonald's that is near Scarborough Road on Route 13 that is part of a Unified Comprehensive Sign Plan that went before the Planning Commission with some of the neighboring buildings to get approval for a different size standard and they were able to get more signs that way. Another restaurant is located at 910 South DuPont Highway near the St. Jones River. This restaurant went before the Board of Adjustment in 2012 and they asked for a total of three (3) wall signs. The variance was recommended for a denial by Staff at that time and the variance application was withdrawn before they received a hearing. They ended up with two (2) wall signs, but it does have very

similar architecture to the one being proposed.

Colonel Ericson asked if it was correct that the restaurant at 910 South DuPont Highway requested three wall signs and it was disapproved and they remained with the City requirements and stayed with two (2) wall signs. Mr. Diaz replied that Staff recommendation was for a denial and the applicant withdrew the variance application before the Board of Adjustment could make a formal decision.

Colonel Ericson stated that the Board of Adjustment tends not to approve additional signs and stay with the Sign Code as written unless a hardship is shown. How would the applicant respond that this is a hardship by not having four (4) signs? Mr. Mondoro replied that they reduced what was originally approved and constructed on the building. They are looking to continue with lesser signage than what was previously approved and constructed out there today. This has been on the site for a number of years and they are proposing a reduction (coming closer to Code conformance). That is the goal based on the approval of the existing signage out there today. They would like to maintain it as much as possible. He understands that they are trying to work with the City to provide something that is more suiting.

Chairman Sheth mentioned that everyone knows where the McDonald's is located when they see the arch. Mr. Mondoro replied yes, everyone does know where the McDonald's is located.

Chairman Sheth asked if it was the initial corporation protocol regarding the sign wherever you go. Mr. Mondoro replied there are a number of different sign packages that you can go with. This is the smallest one that they can propose and what they are looking for out here today. Again, two (2) variances are being requested, one being the size of the sign and the second being the number of signs.

Mr. Senato mentioned that all the McDonald's that he has seen for the most part have the separate standing street sign (outside). He asked if it was going to be eliminated. He asked if the existing road sign was going to remain. Mr. Mondoro replied yes. This is on the eastern side of the building where the drive-thru is today. This is something that they are willing to consider, and it is a good point. There is a potential for elimination of that "M" located on the drive-thru side, given that the free-standing sign is there. It is okay if they end up leaving it there. They spoke to McDonald's and they are acceptable of that and the reduction (going from 4 signs to 3 signs). This is something that he is willing to do today and is prepared to do. One of the other things is that looking at the front of the building the "M" and the "McDonalds" are two (2) separate signs. One of the things that Mr. Diaz mentioned was if the signs were closer together they could be considered one (1) sign. The problem is, it is still above the 32 square feet. Still a great reduction from what is existing out there today at the 67 square feet. On the western elevation the existing sign is 25 square feet and they are proposing 14 square feet which is a larger reduction to the existing sign. They are trying to reduce the impact along each of the elevations especially when you consider the window signs that are no longer there.

Mr. Hufnal asked if they were lighted signs? Mr. Mondoro replied yes. Mr. Hufnal asked even the "M's"? Mr. Mondoro replied correct.

Colonel Ericson asked why the two signs on the front weren't sufficient (the written word "McDonalds" and the "M")? Why do you need more and why is it a hardship? Mr. Mondoro replied as you are traveling east bound on Forrest Avenue that is the first elevation that you see in that direction. The free-standing sign is located past the McDonald's and past the entrance, so by providing that sign on that western elevation you are able to see the sign quicker and alert travelers that there is a McDonald's in that location.

Mr. Senato the road as you come down Forrest Avenue in either direction, he asked how tall was the sign? Mr. Mondoro replied 30 feet (in compliance with the ordinance today). Mr. Senato mentioned that conceivably it can be seen pretty good because there are no obstructions heading in or out of Dover on that sign. He thinks that the sign is pretty visible.

Mr. Hufnal asked the applicant if he was willing to reduce one of the "M's"? Mr. Mondoro replied yes. Mr. Hufnal asked which one? Mr. Mondoro replied the one on the drive-thru side as the one located close to the free-standing sign. Mr. Mondoro mentioned that he could look at the upper right picture over the window on the exhibit.

Mr. Hufnal mentioned that the only other identification would be on the front and the western side of the building because there is nothing on the back except for the drive-thru. Mr. Mondoro replied that is correct. Both of those will be a reduction from the existing conditions that are out there today.

Chairman Sheth stated that honestly by removing the "M" from the left side upper right it will look much more attractive with the black and gold (free-standing). Mr. Mondoro replied okay.

Mr. Hufnal asked if the sign which is 32.8 square feet, was a standard size sign and if it was not reducible in size. In other words, the size or sign is already premade and that is how they come? Mr. Mondoro replied that is correct and standard letter spacing which gets you to the 32.8 square feet.

Chairman Sheth asked if it was the new national logo? Mr. Mondoro replied that is correct. They do have larger signs, but we did not propose that here.

Colonel Ericson mentioned if the Board approved three (3) or four (4) signs the board would set a precedent and that could pretty much validate the City Code for signs because they would have changed it. He did not see the hardship involved. Just looking at it from the front you would immediately know that it is McDonalds. The golden "M" is known throughout the country. He personally did not see the need for the third sign.

Mr. Keller asked if window signs were not allowed or they not included in the sign area computations? Mr. Diaz replied that the total allowed window signage is computed separately from the total allowed wall signage. They would be allowed up to three (3) window signs and each would be allowed a maximum of half the size of the window that it is on.

Mr. Keller asked if he was correct in thinking that if two of the proposed "M" logo signs were not approved today then there is still a possibly of an alternative should the applicant wish to

place an "M" sign on a window configuration that would not require a subsequent approval. Mr. Diaz replied that is correct. It would still be a Sign Permit application, but it would not require a variance.

Mr. Keller asked if the current thinking with the renovation and upgrading coming in with what is vogue today are window signs not something that is being continued. Mr. Mondoro replied that is correct, they are no longer pursued by McDonald's. One of the reasons being is they design their building to upgrade the wall mounted signs and exclude the window signs.

Mr. Keller mentioned that we currently had another sign application variance which was denied on US 13. Their request was for somewhat of an abundance of additional signage around the building. But he thinks the view expressed was much like in this case whether you are traveling east from Maryland coming in onto Forrest Avenue or west leaving the City, the building is still readily visible as is that front signage absent the additional "M's" around the building with the two (2) additional signs that are being requested. As mentioned by one of the Board members, the yellow lighted "M" against the darker backdrop certainly stands out much more clearly as well. As shown in the handout is the façade to be a dark color tile? Mr. Mondoro replied that is correct. Mr. Stout replied they have done a few of these projects in some of the other restaurants. When they take away the iconic red mansard roof, they see some of their customers respond that they are not sure what the facility is even with all the arches, McDonalds and the road signs. They are losing somewhat of an iconic statement if you will.

Mr. Keller questioned whether that was corporates decision or Mr. Stout's? Mr. Stout replied it was corporates.

Mr. Mondoro mentioned that part of it is McDonald's recognizing that they need to reinvest in these properties and change some of the things that were done back in the day to keep things modern and continue to be relevant in the industry.

Chairman Sheth questioned whether they had any more arch signage free-standing like what McDonalds is known for? Mr. Mondoro replied that the existing free-standing sign will remain.

Mr. Hufnal mentioned that one of the suggestions in the data the Board received is that they could construct a monument sign out front. He stated that in lieu of the monument sign, and in reduction of all the signage that they currently have, and, in his view, especially with the removal of the one "M," it would be better to grant the other signage than to have something else built there.

Mr. Hufnal stated that the monument sign would be hard to locate because of the access (where you are next to the Wawa) it would really be tough to put a monument sign there that would not block that entrance.

Colonel Ericson mentioned that again, you would be setting a precedent and the Board has already ruled against several businesses from exceeding the number of signs.

Mr. Hufnal stated that we may be exceeding the number of signs, but we are reducing the

number of square footage signage on the building itself. Colonel Ericson stated that it is against City Code.

Mr. Mandoro mentioned if there were no more questions from the Board, he would like to thank you again and he appreciates the Board time today.

Colonel Ericson mentioned that one thing that interested him is when Mr. Mondoro mentioned that the public said they are having trouble identifying McDonald's with the new sign schemes. How wide spread? Was that a study or comments by a few customers? Mr. Stout replied it was comments by a few customers. We recently completed one in Jennersville Pennsylvania. It looks different.

Mr. Senato asked if all the McDonald's still have the free-standing signs near the road with the "M". Mr. Stout replied correct.

Mr. Senato mentioned even if the building was not there they would see the McDonald's emblem and know what was there. Mr. Stout replied correct.

Mr. Keller asked if someone would be so kind as to help him visualize in his mind this free-standing sign that will remain because he did not see it in the exhibit. Mr. Hufnal replied as he referred to the exhibit (the white car in the bottom left) the pole that is going up that has a little sign and a big pole that is going up is the McDonald's free-standing sign.

Mr. Keller asked if at the top of the pole is a large McDonald's sign? Mr. Hufnal replied yes, that is right.

Mr. Keller asked if that sign would remain? Mr. Stout replied yes. Mr. Mondoro showed Mr. Keller the location of the sign on the exhibit.

Mr. Keller asked the square footage of the sign? Mr. Mondoro replied the existing free-standing sign is 39.2 square feet.

Chairman Sheth opened the public hearing.

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

Chairman Sheth questioned if there was any additional correspondence for the record. There was no additional correspondence.

Mr. Senato moved to disapprove variance application V-18-05 as there was no hardship provided with the familiarity of McDonald's. He takes the recommendation of the Planning Staff in hand and mainly here again a precedent will be set.

Mr. Keller commented that the variance request entails two (2) separate requests, one to permit a total of four (4) wall signs in lieu of the allowed two (2), and additionally to permit a wall sign at 32.8 square feet in lieu of the maximum of 32 square feet. He asked Mr. Senato if the motion

was for denial in total. Mr. Senato replied yes.

The motion was seconded by Colonel Ericson.

Mr. Keller proposed an amendment to the motion to deny the variance for a total of four (4) wall signs in lieu of the allowed quantity of two (2), but allow to permit the wall sign at 32.8 square feet in lieu of the 32 square foot permitted in that it is a minimal increase and in view of the testimony given as to the reduction in the overall sign coverage, etc. and the City's report. The amendment was seconded by Colonel Ericson.

Vote for amended motion:

Mr. Keller – Aye

Colonel Ericson – Aye

Mr. Hufnal – Nay

Mr. Senato – Nay (after he received the understanding of the motion by Mr. Rodriguez)

Chairman Sheth – Aye

The amended motion was approved to deny the variance for a total of four (4) wall signs in lieu of the allowed quantity of two (2), but allow to permit the wall sign at 32.8 square feet in view of the 32 square foot permitted in that it is a minimal increase and in lieu of the testimony given as to the reduction in the overall sign coverage, etc. and the City's report.

The amended motion carried 3 (aye) and 2 (nay).

The meeting was adjourned by Mr. Hufnal and seconded by Mr. Keller at 10:35 A.M.

Sincerely,

Maretta Savage-Purnell Secretary



City of Dover

Board of Adjustment

September 19, 2018

V-18-06

Location: 100 Enterprise Place (on the north side of West North Street)

Applicant/Owner: Scott Henning c/o SLDE Management LLC/ Silver Lake Realty

LLC

Tax Parcel: ED-05-076.15-01-01.00-000

Application Date: August 17, 2018

Present Zoning: IPM (Industrial Park Manufacturing Zone, Planned Industrial Park)

Current Use: Offices

Reviewed By: Julian Swierczek, Planner I

Variance Type: Area Variance

Variance Requested: To go above the maximum lot coverage of 65% required by the

IPM (Planned Industrial Park) zone. Applicant proposes to add 24

parking spaces, increasing the impervious lot coverage from

64.44% to 66.03%.

V-18-06 Silver Lake Realty LLC at 100 Enterprise Pl Board of Adjustment Report Page 2 of 8

Project Description

The applicant is requesting a variance from *Zoning Ordinance* Article 3 §20.54 Design Standards for Planned Industrial Parks and Article 4 §4.16- Bulk and parking regulations for IPM (Industrial Park Manufacturing Zone), to allow for an increase in the maximum impervious lot coverage permitted as related to a proposal to add 24 new parking spaces.

This current application V-18-06 is proposing adding 24 new parking spaces, thereby increasing the impervious lot coverage of the site from 64.44% to 66.03%. The applicant is asking for an area variance because the current owner, Silver Lake Realty LLC wishes to add an additional 24 parking spaces to better accommodate the parking needs of his tenants. This would make the lot coverage exceed the permitted maximum lot coverage of 65% as stated in the *Zoning Ordinance* Article 3 §20.54, and Article 4 §4.16.

Adjacent Land Uses

A Zoning Map Exhibit (<u>Exhibit A</u>) prepared by staff is attached to this Report. It shows the subject property location and surrounding zoning. It is part of a Planned Industrial Park.

The properties adjacent to the south, west, north and northeast are all also zoned IPM. The site across West North Street to the south is a power generation facility owned by First State Power and other industrial properties (Kraft Heinz and Proctor & Gamble). To the west is Capital Cleaners, while to the north and northeast are offices and warehouses. The neighboring property to the east of the site is zoned CPO (Commercial and Professional Office Zone) and is home to Del-One Federal Credit Union. The subject site itself was developed as an office/ warehouse prior to 1993.

Code Citations

Zoning Ordinance, Article 3 §20.54 lists the design standards for planned industrial parks, including laying out a maximum lot coverage. Specifically, it states:

Structures in a planned industrial park shall be restricted to two stories and 35 feet in height. The maximum floor area ratio shall be 0.5. The maximum area of an individual lot permitted to be covered by an enclosed structure is 35 percent. Not more than 65 percent of the total area of an individual lot may be covered by impervious surfaces.

Zoning Ordinance, Article 4 §4.16 lists the bulk and area standards for lots in the IPM zones. It is noted that at their August 27, 2018 meeting, City Council approved Ordinance #2018-06 with SA #1/ PC #1 MI-18-06: Text Amendments: Replacement of Maximum Parking Requirements. This text amendment revises sections of Code related to maximum parking limits and the maximum coverage limitations. Even with that amendment the maximum lot coverage for the IPM (Industrial Park Manufacturing- Planned Industrial Park) zone remains limited to a lot coverage of 65%. lot coverage at 65%.

Zoning Ordinance, Article 12 defines Lot Coverage as follows:

The percent of a lot which is covered, or planned to be covered, with impervious surfaces. [The term] "lot coverage" shall include off-street parking areas and driveways, but not public streets.

V-18-06 Silver Lake Realty LLC at 100 Enterprise Pl Board of Adjustment Report Page 3 of 8

For this property, the maximum permitted parking is related to the maximum lot coverage which is 65%. This rule now replaces the previous one that stated the maximum number of parking spaces was to be 125% of the required minimum number of parking spaces as set up in the Bulk Standards. As the site is currently at 64.44% lot coverage, the proposed addition of 24 parking spaces would bring their total lot coverage to over 66.03%.

The table below compares what is now permitted under *Zoning Ordinance*, Article 4 §4.16. Highlighted is the requirement from which the area variance is being requested

		М	IPM	IPM (Planned	IPM2
			(Conventional Planned)	Industrial Park)	(Technology Center)
Lot area		½ acre	2½ acres	2½ acres average; 60,000 sq. ft. minimum	10 acres
Lot width (ft.)		100	200	150	100
Lot depth (ft.)		150	300	250	100
Front yard (ft.)		40	60	60	60
Side yard (ft.)		20	40	40	40
Rear yard (ft.)		20	40	40	40
Side or rear yard which adjoins a residential zone (ft.)		50	100	100 100	
Off-street parking space:	Off-street parking space:				
	Per 800 sq. ft. of floor area	1	1	1	1
Maximum Parking allowed:	Per employee, per largest working shift (if greater than the requirement under the floor area calculation)	1	1	1½	1
Maximum Parking allowed:	T	050/	750/	650/	650/
	Lot Coverage:	85%	75%	65%	65%

V-18-06 Silver Lake Realty LLC at 100 Enterprise Pl Board of Adjustment Report Page 4 of 8

Zoning Ordinance Article 9 §2 dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. Specifically the Board must determine:

- 2.1 Variance. The board shall have the authority to authorize variances from provisions of the Zoning Ordinance that are not contrary to public interest where the board determines that a literal interpretation of the Zoning Ordinance would result in undue hardship or exceptional practical difficulties to the applicant. In granting variances, the board shall determine that the spirit of the Zoning Ordinance is observed and substantial justice is done.
- 2.11 Area Variance. A variance shall be considered an area variance if it relates to bulk standards, signage regulations, and other provisions of the Zoning Ordinance that address lot layout, buffers, and dimensions. In considering a request for an area variance, the board shall evaluate the following criteria and document them in their findings of fact:
 - (a) the nature of the zone in which the property lies;
 - (b) the character of the immediate vicinity and the contained uses therein;
 - (c) whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; and
 - (d) whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is a permitted use under the provisions of the Zoning Ordinance.

Review of Application

As part of the application, the applicant was asked to summarize how the requested variance relates to the above criteria. The applicant's responses are provided below along with a Staff assessment of the application in accordance with the required criteria. The applicant's responses are also provided in Exhibit B.

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

Applicant Response:

"100 Enterprise Place located on Parcel 1 within the Enterprise Business Park and is in zone IPM (Industrial Park Manufacturing). The 53,060 square feet building is an office building which is a permitted use. Originally, the building was constructed as a warehouse, but was converted to office space. Tenants include Easterseals, General Floor, Government Support Services, and the Board of Elections."

Staff Response:

Staff concurs with the applicant's assessment of the site and its permitted uses, as Code describes business, professional and administrative office uses as being permitted. The previous use of the building, in part as a warehouse, is also a permitted use. The IPM zone also permits uses like manufacturing, assembly, and agricultural facilities.

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

Applicant Responses:

"100 Enterprise Place located within the Enterprise Business Park in West Dover on Parcel 1. Enterprise Business Park is a mix of professional office space and warehouse buildings. Parcel 1 is located on the northwest corner of the intersection of West north Street and Enterprise Place. The property is bounded on the North by Commerce Way and by Capital Cleaners and Launderers on the West. The owner of 100 Enterprise Place also to owns 155 Commerce Way, which is on the North side of Commerce Way opposite 100 Enterprise Place."

Staff Response:

Staff concurs with the applicant's description, and with the assessment that the office use of the site is not out of character for the area. the immediate vicinity is home to several other office buildings and warehouses within the Enterprise Business Park. Across West North Street from the Enterprise Business Park are sites not within the overall business park development but are home to large scale industrial/manufacturing facilities and a power generator.

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

Applicant Response:

"The subject property has no interconnectivity to any of the adjacent commercial properties. The additional 24 spaces requested will not affect neighboring properties and uses."

Staff Response:

Planning Staff agrees with the assessment of the applicant in that the main reason for the variance request is so that employees who work within the facility are better able to find parking. One of the tenants (Easterseals) utilizes bus transportation which unfortunately takes up much of the onsite parking provided. Tenants are sometimes then forced to park off-site in the street or in neighboring parking lots. Therefore, this variance request would not only help alleviate some of the parking need for 100 Enterprise Place but would also help lessen the burden of neighboring properties to potentially have to accommodate overflow parking for this site.

The provisions of Article 4 §4.16 would require a minimum parking of 177 spaces. This is based on the provisions that 1.5 parking spaces would be required for every employee, which the applicant has stated is 118 employees. If this were to be calculated based on the square footage of the building, which the applicant has stated is 53,060 SF, the building would have a minimum parking requirement of 67 parking spaces. The applicant has stated there are currently 163 parking spaces, including 6 handicapped spaces. Minimum parking requirements are estimated based on whichever calculation has the higher number of parking spaces. Based on this assessment, the site currently does not have enough parking spaces to meet minimum requirements, which is why some employees are forced to park off-site.

V-18-06 Silver Lake Realty LLC at 100 Enterprise Pl Board of Adjustment Report Page 6 of 8

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 Response:

"Tentants at 100 Enterprise Place include Easterseals, General Floor, Government Support Services, and the board of Elections. There are a total of 118 employees at the building daily. Easterseals' clients are transported to their office via DART Paratransit and the paratransit buses take up approximately 20+ spaces (see photos). The 20+ spaces not available for general parking.

Government Support Services has 5 conference rooms that are used by State agencies for training which brings 100+ people to the building on any given day. On days when Easterseals and Government Support Spaces are operating at full capacity, there are not enough parking facilities to accommodate the tenants' needs. Government Support Services has expressed concern to the Owner that if more parking facilities are not created, they'll be forced to relocate.

The availability of on-street parking along the East side of Enterprise Place is not available since the construction and operation of the office building named Enterprise Plaza (see photos). The creation of an additional 24 spaces on the north side of the property abutting the South side of Commerce Way will help significantly to relieve the parking problem. There are a total of 163 parking spaces (including 6 handicap spaces) on site. The existing total impervious surface area (buildings, pavement, sidewalks) is 171,997.54 square feet of the total property area (266,930 square feet) which equals 64.4354475% impervious. The additional parking will produce an additional 4,266 square feet of impervious area. The proposed total impervious surface area is 176,263.54 square feet which equals 66.0336193%. Article 4, Section 20.54 states that the maximum impervious lot coverage is 65% in the IPM zone. Therefore, an area variance increase of 1.0336193% is being requested.

As previously stated, Government Support Services has expressed their dissatisfaction to the Owner concerning not having enough parking. The Owner strongly desires to accommodate all the tenants to maintain a healthy business relationship which is mutually beneficial. Not being able to construct the additional 24 spaces will negatively impact the Owner from maintaining current and future leases."

Staff Response:

Were the applicant to not have their variance request approved, the applicant has stated that at least one of their tenants will be forced to look for office space at a different location that can provide the parking spaces to serve its functions. The type of offices at the location means that there are many visiting workers cycling through the site in addition to the location that work there every day. As avoiding the loss of a tenant is one of the main reasons for the applicant to seek this variance, Staff considers their not having the variance approved to be an unnecessary hardship.

V-18-06 Silver Lake Realty LLC at 100 Enterprise Pl Board of Adjustment Report Page 7 of 8

Staff also notes that the required minimum parking for the stated 118 employees in the IPM (Planned Industrial Park) zone would be 177, exceeding their current number of 163 parking spaces. Although not stipulated by the code, if one were to further calculate parking spaces based on the 100 additional employees the applicant estimated could visit on days for conferences/ training, they would require a further 150 parking spaces in addition to the minimum for regular employees of 177. This would be a total of 327 parking spaces required for high volume staff days. While visiting staff is not a consideration when calculating minimum parking requirements, these numbers do show that the current parking space count of 163 spaces is insufficient to meet employee needs.

Variance Recommendations

Staff recommends approval of the variance to allow for the increase in maximum lot coverage. Staff recommend approval for reasons as follows:

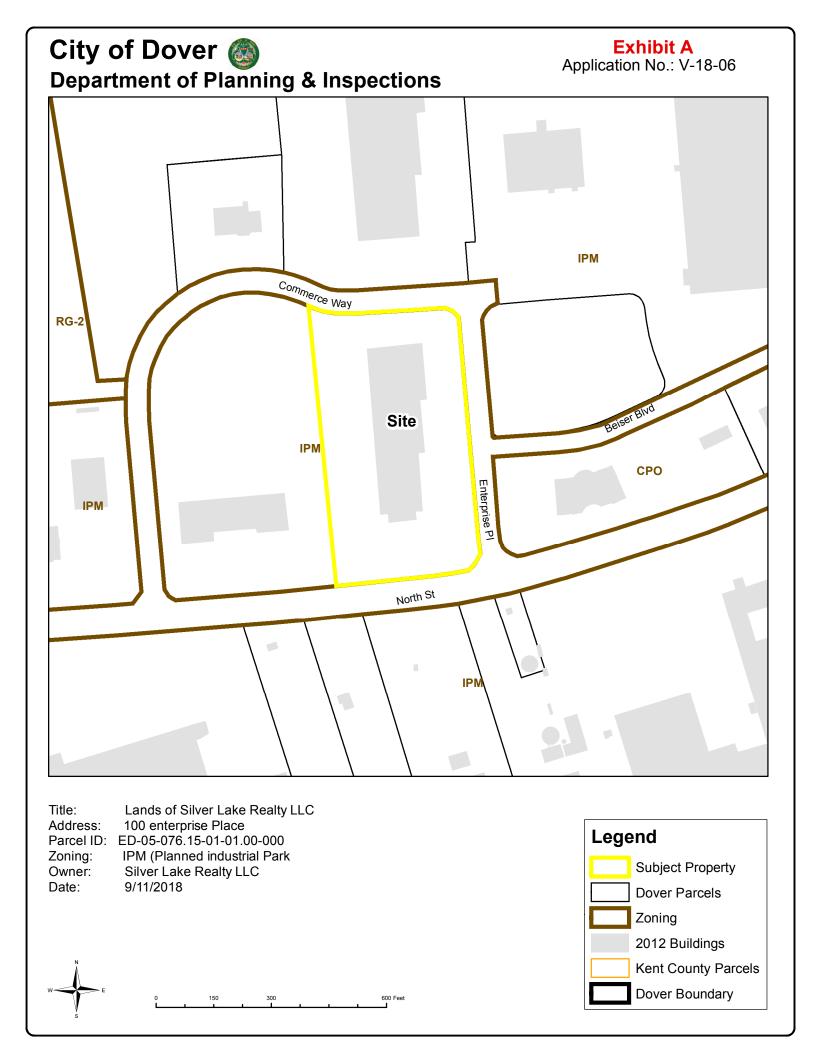
- The increase in impervious lot coverage is not significant enough to pose any detrimental affect on the neighboring properties. The current maximum allowed impervious lot coverage in the IPM zone is 65% and the applicant is proposing an increase to 66.03% to accommodate the added 24 parking spaces. This is coupled with the fact that parking is in such seemingly short supply that employees have been looking to park off-site which may be an inconvenience for other offices or businesses in the area. Also of key importance is that one of the tenants has indicated that if more parking spaces aren't provided, they will be forced to find a new tenancy space. This would incur a hardship for the applicant.
- The current parking facilities, providing parking spaces for 163 cars, is insufficient. This is due to the high volume of regular staff (118), the high number of visiting workers (100), as well as the buses used to bring in workers for Easter Seals taking up about 20 parking spaces for dropping off and picking up staff. According to Article 4 §4.16, at least 177 parking spaces would be needed to meet code.

Advisory Comments to the Applicant

- If granted, variances become null and void if work has not commenced within one (1) year of the date the variance was granted. At present there is no provision for extension.
- In order to create the additional parking spaces and Administrative Site Plan will have to be filed with the Planning Office prior to construction activity.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (Staff)	1
В	Background Information and Criteria Responses (Applicant)	1
C	Site Plan showing proposed parking	1
D	Series of photos showing current conditions of parking and site of proposed parking addition	4



Office Location 103 South Bradford Street Dover, DE 19904

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Kim I. Adams
President

Troy L. Adams, P.E. Vice President

AREA VARIANCE - 100 ENTERPRISE PLACE

The nature of the zone in which the property lies.

100 Enterprise Place located on Parcel 1 within the Enterprise Business Park and is in zone IPM (Industrial Park Manufacturing). The 53,060 square feet building is an office building which is a permitted use. Originally, the building was constructed as a warehouse, but was converted to office space. Tentants include Easterseals, General Floor, Government Support Services, and the Board of Elections.

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

100 Enterprise Place located within the Enterprise Business Park in West Dover on Parcel 1. Enterprise Business Park is a mix of professional office space and warehouse buildings. Parcel 1 is located on the Northwest corner of the intersection of West North Street and Enterprise Place. The property is bounded on the North by Commerce Way and by Capital Cleaners and Launderers on the West. The Owner of 100 Enterprise Place also to owns 155 Commerce Way, which is on the North side of Commerce Way opposite 100 Enterprise Place.

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

The subject property has no interconnectivity to any of the adjacent commercial properties. The additional 24 spaces requested will not affect neighboring properties and uses.

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.

Tentants at 100 Enterprise Place include Easterseals, General Floor, Government Support Services, and the Board of Elections. There are total of 118 employees at the building daily. Easterseals' clients are transported to their office via DART Paratransit and the paratransit buses take up approximately 20+ spaces (see photos). This is 20+ spaces not available for general parking.

Area Variance – 100 Enterprise Place Page 2 of 2

Government Support Services has 5 conference rooms that are used by State agencies for training which brings 100+ people to the building on any given day. On days when Easterseals and Government Support Spaces are operating at full capacity, there are not enough parking facilities to accommodate the tenants' needs. Government Support Services has expressed concern to the Owner that if more parking facilities are not created, they'll be forced to relocate.

The availability of on-street parking along the East side of Enterprise Place is not available since the construction and operation of the office building named Enterprise Plaza (see photos). The creation of an additional 24 spaces on the North side of the property abutting the South side of Commerce Way will help significantly to relieve the parking problem. There are at total of 163 parking spaces (includes 6 handicap spaces) on site. The existing total impervious surface area (buildings, pavement, sidewalks) is 171,997.54 square feet of the total property area (266,930 square feet) which equals 64.4354475% impervious. The additional parking will produce an additional 4,266 square feet of impervious area. The proposed total impervious surface area is 176,263.54 square feet which equals 66.0336193%. Article 4, Section 20.54 states that the maximum impervious coverage is 65% in the IPM zone. Therefore, an area variance increase of 1.0336193% is being requested.

As previously stated, Government Support Services has expressed their dissatisfaction to the Owner concerning not having enough parking. The Owner strongly desires to accommodate all the tenants to maintain a healthy business relationship which is mutually beneficial. Not being able to construct the additional 24 spaces will negatively impact the Owner from maintaining current and future leases.







103 S. Bradford Street Dover, DE 19904

P.O. Box 558 Dover, DE 19903

302.744.9875 Tel 866.672.6428 Fax

PARKING EXHIBIT

100 ENTERPRISE PLACE DOVER, DE 19904

icale | Date | PROJECT NO. | FIGURE | 1"=200' | 8/20/2018 | 2018088EM | 1



Client Name:

Silver Lake Realty

Site Location:

100 Enterprise Place, Dover, DE 19904

Project No.

2018088EM

Photo No.

Date: 8/9/18

Direction Photo Taken:

East

Description:

Buses parked in front of Easterseals.



Photo No.

Date: 8/9/18

Direction Photo Taken:

Northeast

Description:

Buses parked in front of Easterseals.



100 Enterprise Place - Photo Log Page 1 of 4



Client Name:

Silver Lake Realty

Site Location:

100 Enterprise Place, Dover, DE 19904

Project No.

2018088EM

Photo No. Date: 8/9/18

Direction Photo Taken:

North

Description:

Buses for Easterseals taking up numerous parking spots along the front of the building.



Photo No.

Date: 8/9/18

Direction Photo Taken:

Northeasterly

Description:

Enterprise Plaza -Cars parking along Enterprise Place



100 Enterprise Place - Photo Log Page 2 of 4



Client Name:

Silver Lake Realty

Site Location:

100 Enterprise Place, Dover, DE 19904

Project No. 2018088EM

Photo No. 5

Date: 8/9/18

Direction Photo Taken:

West

Description:

Cars parked along the south end of building.



Photo No.

Date: 8/9/18

Direction Photo

Taken:

West

Description:

Cars parked along the south end of building.



100 Enterprise Place - Photo Log Page 3 of 4



Client Name:

Site Location:

Project No.

Silver Lake Realty

100 Enterprise Place, Dover, DE 19904

2018088EM

Photo No.

Date: 8/17/18

Direction Photo

Taken:

Southeast

Description:

Enterprise Plaza -Cars parking along Enterprise Place



Photo No.

Date: 8/17/18

Direction Photo Taken:

West

Description:

Location of 24 "new" parking spaces.



100 Enterprise Place - Photo Log Page 4 of 4



City of Dover

Board of Adjustment

September 19, 2018

V-18-07

Location: 1240 McKee Road, Dover DE

Applicant: Michael Graham c/o PAM Dover DE IRF LP

Owner: PAM Dover DE IRF LP

Tax Parcel: ED05-067.00-01-33.00-000

Application Date: August 17, 2018

Present Zoning: IO (Institutional and Office Zone)

COZ-1 (Corridor Overlay Zone)

Present Use: Physical Rehabilitation Hospital (under construction)

Proposed Use: Physical Rehabilitation Hospital

Reviewed By: Eddie Diaz

Variance Type: Area Variance

Variance Requested: To permit a wall sign between 352 SF and 424 SF where

the maximum sign area permitted is 32 SF. (For a non-

residential use adjacent to a residential use).

Project Description

The applicant is currently constructing a new 43,522 SF physical rehabilitation hospital at 1240 McKee Road in Dover (Site Plan #S-17-05, granted Final Approval on February 5, 2018). The applicant proposes to install a single large wall sign on the front façade of this building, sized either 424 SF or 352 SF.

The sign cannot be installed in compliance with the *Zoning Ordinance*. The property's frontage on McKee Road (an "Urban Minor Arterial" street) and the proximity of residential uses across the street limit the maximum size for a wall sign on this property to 32 SF. The applicant is requesting a variance from the Supplementary Sign Regulations specified in the *Zoning Ordinance*, Article 5 §4.7 to allow the property to exceed this maximum sign area.

The applicant's variance application renderings can be found in Exhibit D. These rendering include building elevations and the two proposed sign sizes, presented as "Option A" (424 SF) and "Option B" (352 SF). This package of renderings does not constitute the applicant's full sign package for the hospital project; a 31 SF monument sign not needing a variance was previously approved on July 20, 2018. This sign is depicted in Exhibit E for the Board's reference.

Adjacent Land Uses

The property is located on the west side of McKee Road north of College Road. To the north of the property are the headquarters of the First State Model Railroad Club and a Day Care Facility, zoned CPO (Commercial and Professional Office Zone). Across McKee Road to the east are the North Dover Elementary School, zoned IO, a stormwater pond, and three one-family dwellings located in an enclave of Kent County. To the south are two more one-family dwellings, zoned CPO and R-8 (One-Family Residence Zone) respectively, as well as the McKee Crossing commercial building, zoned C-2A (Limited Central Commercial Zone). Finally, at the rear of the property to the west is the Emerald Pointe subdivision, consisting of one-family detached dwellings and zoned R-8.

All the above-mentioned uses are located either entirely or partially within the Corridor Overlay Zone (COZ-1). The COZ-1 requires enhanced design requirements for landscaping, setbacks, building placement, parking, buffering, and access in order to promote superior urban design.

A map of the property and surrounding area may be found in Exhibit A.

Code Citations

The City of Dover sign regulations found in *Zoning Ordinance*, Article 5 §4 determine the allowable number, type and dimensional characteristics of signage on a property according to:

- The type of use
- Proximity to residential uses
- Classification of roads on which the property has frontage

The proposed hospital is considered a permitted, non-residential use located adjacent to a residential use as specified in Article 5 §4.3 of the *Zoning Ordinance*.

V-18-07 PAM Rehabilitation Hospital Signage, Dover DE Board of Adjustment Report Page 3 of 10

The City of Dover sign regulations distinguish three (3) types of roads for purposes of determining allowable signage. McKee Road is an "Urban Minor Arterial" as defined by Article 5 §4.3.

The entire "Sign Table" from *Zoning Ordinance* Article 5 §4.7 is presented in <u>Exhibit B</u>. The section pertaining to this project is highlighted in the middle section of the table.

This section is what applies to "Nonresidential Uses Adjacent to Residential Districts" as shown in the vertical text on the left, and shows the sign types, maximum number of signs, sign area, sign height, and minimum required setbacks and exclusion zones for signs on properties fronting on "Urban Minor Arterial" streets.

For this property, two wall signs are permitted based on the property's frontage on McKee Road. The signs granted by McKee Road are limited in size to 32 SF. They are additionally limited to being no more than 15% of the size of the facade they are on. To promote flexibility in signage designs, wall signs may be placed on any façade of the building regardless of what street classification they are permitted under. (See *Zoning Ordinance*, Article 5 §4.4(C)(5).)

The table below compares what is permitted under *Zoning Ordinance* Article 5 §4.7 to the applicant's proposed signage.

Table 1
Allowed and Requested Signage, 1240 McKee Road

Sign #	Description	Location		Max size	Max height	% of Wall Area	Setback (ROW)	Exclusion Zone
1 W	Wall Sign	east	Permitted	32 SF	N/A	15%	N/A	N/A
	vvali Sigii	façade	Requested	352 to 424 SF		not specified*		
2 N	Monument	McKee	Permitted	32 SF	7 ft.	N/A	5 ft.	20 ft.
	Monument	frontage	Approved	31 SF	4 ft. 10 in.		10 ft.	>20 ft.

^{*}While the percentage of the wall area the sign takes was not specified by the applicant, Staff estimates it to be less than 15% based on the large area of the east façade. See <u>Exhibit G</u> for overall building renderings; please note that these are older renderings accurately depicting the building architecture but not the building signage.

Exceptional Practical Difficulties Tests

Zoning Ordinance Article 9 §2 dictates the specific powers and duties of the Board of Adjustment with regard to granting variances. Specifically, the Board must determine:

- 2.1 Variance The board shall have the authority to authorize variances from provisions of the Zoning Ordinance that are not contrary to public interest where the board determines that a literal interpretation of the Zoning Ordinance would result in undue hardship or exceptional practical difficulties to the applicant. In granting variances, the board shall determine that the spirit of the Zoning Ordinance is observed and substantial justice is done.
- 2.11 Area Variance. A variance shall be considered an area variance if it relates to bulk standards, signage regulations, and other provisions of the Zoning Ordinance that address lot layout, buffers, and dimensions. In considering a request for an area variance, the board shall evaluate the following criteria and document them in their findings of fact:
 - (a) the nature of the zone in which the property lies:
 - (b) the character of the immediate vicinity and the contained uses therein;

- (c) whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses; and
- (d) whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in his efforts to make normal improvements in the character of that use of the property that is a permitted use under the provisions of the Zoning Ordinance.

Review of Application

As a part of the application, the applicant was asked to state how the requested variance relates to the above four criteria. The applicant's responses are provided below, along with a staff assessment of the application in accordance with the required criteria. The applicant's responses are also provided in <u>Exhibit C.</u>

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

Applicant Response:

"This variance application is related to Post Acute Medical Center, 1240 McKee Road, Dover, DE. This property has been classified as a "nonresidential use adjacent to residential districts or uses" under the second table in Article 5 Section 4.7. McKee Road is classified as an "urban minor arterial" according to the City's Comprehensive Plan. Due to this classification, the standard zoning for the building only entitles it to (2) wall signs, each with a maximum of 32 square feet. We have included a rendering in our package [Exhibit D] which clearly shows what a 32 Sq. Ft. wall sign will look like from the street at 150 ft. away. As you can see, the sign is barely visible & not legible from the street, and this will cause major difficulties for patients & visitors in locating this medical center. The front elevation signage was included at the proposed large 250-300 Sq. Ft. scale in the original building permit for the project, and no objection to the signage or front elevation was raised or discussed at the time of the approval on that building permit."

Staff Response:

The property is in the IO Zone, which permits business, professional, and governmental offices; banks; research, design and development laboratories; public and institutional uses; public utility rights of way and structures; day care centers; emergency shelters and transitional housing. The physical rehabilitation hospital is permitted as an institutional use.

As previously mentioned, the property is also in the Corridor Overlay Zone. The COZ-1 requires enhanced design requirements for landscaping, setbacks, building placement, parking, buffering, and access in order to promote superior urban design.

The property's inclusion in the Corridor Overlay Zone is significant to this application. As the applicant discusses above, their primary complaint is the appearance of a 32 SF sign given the large setback of the building. According to the project's Site Plan (Exhibit F), the building is set back from the property line 86 feet. (150 feet is about the distance from the building to the middle of the northbound travel lane.) This is a deviation from the required front yard setback of the Corridor Overlay Zone, which is typically a

minimum of 40 feet and a maximum of 50 feet for nonresidential properties along McKee Road.

In their conditional approval of the project on March 20, 2017, the Planning Commission extended the maximum front yard setback for the hospital to 90 feet, based on the project exhibiting characteristics of "Superior Urban Design." See *Zoning Ordinance* Article 3, Section 27.61 for information on setbacks in the Corridor Overlay Zone, including the Commission's ability to extend the setback. See also Article 3, Section 27.2 for the criteria the project met to be granted a designation of Superior Urban Design.

It is noted that the COZ-1's setback extension provision does not necessarily account for signage requirements. Had the hospital building been built no more than 50 feet from the property line as originally required, it would have been much easier to see a codecomplaint sign on the building from the street.

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

Applicant Response:

"This property is located at 1240 McKee Road, which has a few residential areas in the general surrounding area; however, across the street are only 3 residences & then there is the North Dover Elementary School & a large industrial park with several different individual businesses. The front building elevation area with the signage faces the Elementary School, Industrial Park & those 3 small residences. However, the residences are 250 ft. away from the building elevation with the proposed signage."

Staff Response:

Staff generally concurs with the applicant's description of the immediate vicinity. The industrial park referred to is the College Business Park; located over 800 feet from the property on the other side of the elementary school, Staff would not characterize it as being within the immediate vicinity. The houses across the street have varying setbacks and therefore have different distances from the hospital building; the closest one appears to have a 215-foot distance from building face to building face while the farthest appears to have a 280-foot distance.

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

Applicant Response:

"The only residences which would be able to see the front elevation signage from their house are 3 small residences directly across McKee Road. We met with the owners of those 3 residences & have discussed this project & proposed signage in person with each residence owner. Enclosed in our variance package is a signed form of agreement, where each resident has confirmed that they have no objections to the proposed larger signage. The residents even mentioned that they were happy the Medical Center was being built, because the empty lot across the street has been such an eyesore."

Staff Response:

There are several ways the sign may affect neighboring properties and the area at large that the Board should consider. The first is the sign's direct effect on the neighbors across the street. Staff originally anticipated the size and lighting of the sign could have adverse effects on these neighbors. However, the signatures gathered by the applicant and shown in Exhibit H as well as the testimony above suggest the homeowners instead view the proposed variance favorably. Exhibit H also includes the materials shown to the homeowners. Key to the applicant's argument presented there is that the sign would be far enough away from the neighbors that there would be no glare or excess lighting on their properties. As previously mentioned, the building is set back 86 feet from the property line. The right-of-way width varies but is an additional 95 feet wide immediately in front of the building. Therefore, it does appear that the building's extended setback lessens the sign's possible adverse effects.

The second way the sign may affect neighboring properties is by setting a precedent for neighbors to request their own oversize signage. In this case, Staff does not believe a precedent would be set. The size of the building, its setback, and its use are unique for the area. The hospital is not a commercial business that would use signage to compete with other businesses for customers' attention. Therefore, other businesses in the area should also not feel the need to compete with it.

The third way the sign may affect the area at large is by being a distraction to passing motorists. Though large signs in general tend to be more distracting than smaller ones, this can be lessened by having the sign be proportional to the building, and by having the sign sit parallel to the road rather than face oncoming motorists. In this case the large sign sits parallel on a proportionally large building, one that motorists will see well before they see the sign itself. By contrast, a small sign difficult to read from the street may prove more of a distraction to motorists, who may spend time trying to figure out what it says rather than focus on the road.

Based on the above factors, including neighbor support, lack of competition, and the sign's proportionality, Staff believes that the sign will have a minimal adverse effect on the neighboring properties and area.

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 Response:

"As clearly shown in our elevation drawing, the 32 Sq. Ft. signage allowance is nowhere close to being visible from the street, and would be unsightly & not in scale with the building from an aesthetic point of view. This 32 Sq. Ft. allowance seems to make sense for a small business with direct road frontage, but this is a large medical complex with road frontage that sits approx. 150-200 ft. away from the road & the size of the property is equal to approx. 15 smaller business, which are each allowed to have 32 sq. ft. in signage.

V-18-07 PAM Rehabilitation Hospital Signage, Dover DE Board of Adjustment Report Page 7 of 10

From a business disruption & traffic safety point of view, this will clearly cause major difficulties for patients/visitors in finding the medical center, and it could easily lead to traffic slowdowns & potential accidents in this area as drivers hit their breaks on a busy road to squint & try to read the 32 sq. ft. sign on the building & find this business.

This proposed signage is very tasteful & not out of scale for the property, and the owner has also approved a signage design that includes dark blue letters, which do not light up brightly at night & will not cause any glare. We have also included a detailed light study that measures the foot candles which this sign will exhibit from various distances away at 50 / 100 / 150 / 200 ft. As shown in this study, the foot candles & light from the sign will be drowned out by the moonlight & traffic lights from street level at 150+ ft. away. The study shows that there is no measurable difference in visible foot candles from the road, when the sign is lit or non-illuminated.

As a last point, the owner has invested a substantial amount of money into building this medical center in Dover, and they are bringing jobs, tax revenue & medical services to the community. The owner has been under the impression that adequate signage to run this business had been reviewed & accepted as part of the original permit to begin the project. (The signage was shown on the elevation & architectural drawings from this original permit filing.) It would cause a severe hardship on this business if they would not be permitted to have a sign that is visible from McKee Road.

Staff Response:

Staff believes there are a few inaccuracies in the above applicant response, which should be addressed to ensure the Board has the correct information needed to find any practical difficulties. First, based on measurements previously given in this Report the building is not 150 to 200 feet away from the street; rather it is 86 feet away from the property/right-of-way line, 110 feet away from the street's west curb line, and 170 feet away from the street's east curb line. These differences should be considered in thinking about the sign's visibility.

Second, the sign code does not allocate additional signage to businesses based on their size. Businesses can be arbitrarily large or small, and because of that the sign code does not attempt to judge when a business would need more signage because it is the same size as several smaller businesses that in total could receive more signage. There is no basis for allocating the hospital the same amount of signage as 15 smaller businesses.

Third, there are no existing traffic lights or street lights in front of this property, and according to the Site Plan no new ones are going to be built. The closest street light is about 160 feet away from the southeast corner of the property; it will most likely not be able to drown out the light from the sign. Based on the sign's location, only its physical distance from the street (and perhaps the moonlight) will affect the visibility of its light.

Finally, while the sign subject to this variance was indeed shown on the elevation and architectural drawings submitted for the project's Building Permit (Permit #17-1629), Planning Staff in their approval of the permit gave the applicant comments (Exhibit I) stating that a separate sign permit was needed for review of the sign. The comments also

stated that the sign likely did not meet the requirements of the *Zoning Ordinance*. Furthermore, the Building Permit was the first time this sign was seen by Planning Staff. As shown in Exhibit G, the sign was not part of the original design of the building shown to the Planning Commission. The area where the sign is now located was previously taken by a second, shallower canopy above the building's main front canopy.

The remaining points from the applicant's argument to address are the aesthetics issue and the traffic safety/wayfinding issue. In general, sign variances should not be granted for aesthetic reasons. While a 32 SF sign will certainly look strange in a space designed for a 424 SF one, this does not mean there aren't other places on the building where a 32 SF sign or two such signs would be more appropriate. For instance, a sign closer to ground level, and oriented to pedestrians approaching the building from the parking lot, would not prove a hazard to motorists trying to read a too-small sign from the street.

As for difficulty with finding the building, Staff would note that this is unlikely based on its large size; visitors are unlikely to think that any of the much smaller buildings nearby are the hospital. In addition, the hospital has been approved for a 31 SF monument sign (Exhibit E) which will aid motorists in finding the site entrance. This sign is similar in size to other monument signs in the area which serve the same purpose for their businesses.

Based on the above findings, particularly there being possible locations for compliant wall signs and there not being a significant traffic safety/wayfinding issue, Staff does not find an exceptional practical difficulty or unnecessary hardship associated with this application.

Variance Recommendation

Staff recommends **denial** of the variance to permit a 352 SF to 424 SF wall sign exceeding the maximum 32 SF size, for the following reasons:

- While it does not appear that any adverse effects would be imposed on neighbors by the sign, the sign's size is still unnecessarily large.
- The sign's wayfinding purpose can be fulfilled by the monument sign.
- Traffic safety issues caused by having too small a sign can be avoided by putting it in a different location less visible to motorists.
- The applicant does not appear to have considered whether there are other places on the building appropriate for code-complaint signage.
- Any issues caused by the building's distance from the street are to some extent selfimposed, because the applicant previously sought and received relief from the 40 to 50foot setback required by the Corridor Overlay Zone.

Advisory Comments to the Applicant

• If granted, variances become null and void if work has not commenced within one (1) year of the date the variance was granted. At present there is no provision for extension.

V-18-07 PAM Rehabilitation Hospital Signage, Dover DE Board of Adjustment Report Page 9 of 10

• If a variance is granted, a new sign permit application will be required for the sign. The previous sign permit application submitted was approved for the monument sign only.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
A	Zoning Exhibit Map (staff)	1
В	Sign Table from <i>Zoning Ordinance</i> Article 5 Section 4.7 (staff)	1
C	Applicant Responses to Criteria (applicant)	3
D	Variance Application Renderings (applicant)	5
E	Approved Monument Sign from permit #18-1103 dated 7/9/2018 (staff/applicant)	1
F	Site Plan (staff/applicant)	1 (11"x17")
G	Building Architecture dated 3/10/2017 (staff/applicant)	4
Н	Materials presented to neighbors and signature sheets (applicant)	9
I	Building Permit comments from permit #17-1629 dated 2/6/2018	2

City of Dover 🚳 **Exhibit A** Application No.: V-18-07 **Department of Planning & Inspections CPO** 10 Site СРО R-8 Tanzanite Ct CPO 10 TOPAZO C-2A AcquartaineCt СРО R-10 RG-2 10 R-10 Title: Lands of PAM Dover DE IRF LP Address: 1240 McKee Road Legend Parcel ID: ED05-067.00-01-33.00-000 Zoning: IO (Institutional and Office Zone) Subject Property PAM Dover DE IRF LP Owner: 9/12/2018 Date: **Dover Parcels** Zoning 2012 Buildings **Kent County Parcels Dover Boundary**

Zoning Ordinance, Article 5 §4.7

SIGN TABLE									
	Use	Road Type			Permi	itted Sig	ns		
	Specific		Sign Type	Number Permitted	Max. Size	Max. Height	% of Total Wall Area	Setback (R.O.W.)	Exclusion Zone
and ss in cts	Single-Family Detached Semi-Detached	All Streets	Signs permitted in § 4.5 only						
Residential Uses and Nonresidential Uses in Residential Districts	Professional Office	All Streets	Post or Monument	1/entrance	12 S.F.	7 feet	N/A	5 feet	20 feet
entia side lenti			Wall &	1/frontage 1/frontage	16 S.F. 32 S.F.	N/A N/A	< = 15% < = 15%	N/A N/A	N/A N/A
Reside Nonres Resid	Subdivisions Multi-Family Residential Uses Mobile Home Parks	All Streets	Monument or	2/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
_	Places of Worship		Post and Panel Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
	Daycare Centers	Lirban Dringinal	Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	10 feet	20 feet
ent to Jses	Approved Conditional Uses	Arterial	Post** &	1/frontage	16 S.F.	7 feet	N/A	5 feet	5 feet
djac or L	Educational/ Institutional		Pylon*	1/frontage	32 S.F.	30 feet	N/A	30 feet	50 feet
ss A			Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
al Use	All Other Approved	Urban Minor Arterial	Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
dent entia	Nonresidential Uses		Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
Nonresidential Uses Adjacent to Residential Districts or Uses			Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
		Urban Local/ Collector	Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
	Urban Principal Arterial Nonresidential Uses Urban Minor Arterial	Urban Principal Arterial	Wall &	2/frontage	No max	N/A	< = 15%	N/A	N/A
			Monument or Post and Panel &	1/entrance	100 S.F.	10 feet	N/A	10 feet	20 feet
ر ج			Pylon OR *	1/frontage	100 S.F.	30 feet	N/A	15 feet	50 feet
es ir rict			Pylon*	1/frontage	150 S.F.	30 feet	N/A	31 feet	50 feet
Use			Wall &	2/frontage	64 S.F.	N/A	< =15%	N/A	N/A
Nonresidential Uses in Nonresidential Districts		Monument or Post and Panel OR	1/entrance	64 S.F.	7 feet	N/A	5 feet	20 feet	
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
			Wall &	2/frontage	32 S.F.	N/A	< = 15%	N/A	N/A
		Urban Local/ Collector	Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet

^{*} Denotes that an additional wall sign may be permitted/added in lieu of a freestanding pylon sign.

 $[\]ensuremath{^{**}}$ Post sign would be in lieu of a monument sign or post and panel sign.



To Whom it may Concern,

Here are the comments & answers we are providing for the various criteria for evaluation of the Signage Variance for Post Acute Medical Center, 1240 McKee Road, Dover, DE.

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

This variance application is related to Post Acute Medical Center, 1240 McKee Road, Dover, DE. This property has been classified as a "nonresidential use adjacent to residential districts or uses" under the second table in Article 5 Section 4.7. McKee Road is classified as an "urban minor arterial" according to the City's Comprehensive Plan. Due to this classification, the standard zoning for the building only entitles it to (2) wall signs, each with a maximum of 32 square feet. We have included a rendering in our package which clearly shows what a 32 Sq. Ft. wall sign will look like from the street at 150 ft. away. As you can see, the sign is barely visible & not legible from the street, and this will cause major difficulties for patients & visitors in locating this medical center. The front elevation signage was included at the proposed large 250-300 Sq. Ft. scale in the original building permit for the project, and no objection to the signage or front elevation was raised or discussed at the time of the approval on that building permit.

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

The only residences which would be able to see the front elevation signage from their house are 3 small residences directly across McKee Road. We met with the owners of those 3 residences & have discussed this project & proposed signage in person with each residence owner. Enclosed in our variance package is a signed form of agreement, where each resident has confirmed that they have no objections to the proposed larger signage. The residents even mentioned that they were happy the Medical Center was being built, because the empty lot across the street has been such an eyesore.

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.

As clearly shown in our elevation drawing, the 32 Sq. Ft. signage allowance is nowhere close to being visible from the street, and would be unsightly & not in scale with the building from an aesthetic point of view. This 32 Sq. Ft. allowance seems to make sense for a small business with direct road frontage, but this is a large medical complex with road frontage that sits approx. 150-200 ft. away from the road & the size of the property is equal to approx. 15 smaller business, which are <u>each</u> allowed to have 32 sq. ft. in signage.

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As a last point, the owner has invested a substantial amount of money into building this medical center in Dover, and they are bringing jobs, tax revenue & medical services to the community. The owner has been under the impression that adequate signage to run this business had been reviewed & accepted as part of the original permit to begin the project. (The signage was shown on the elevation & architectural drawings from this original permit filing.) It would cause a severe hardship on this business if they would not be permitted to have a sign that is visible from McKee Road.

Thank you for your time & consideration of this variance application.

Craig Beach

(Signature of Walton Signage Representative)

Craig Beach – Director of Development / Walton Sigange

(Printed Name of Walton Signage Representative)

Michael Graham

(Signature of Property Owner)

Michael Graham - Principal - DOVER DE IRF LP

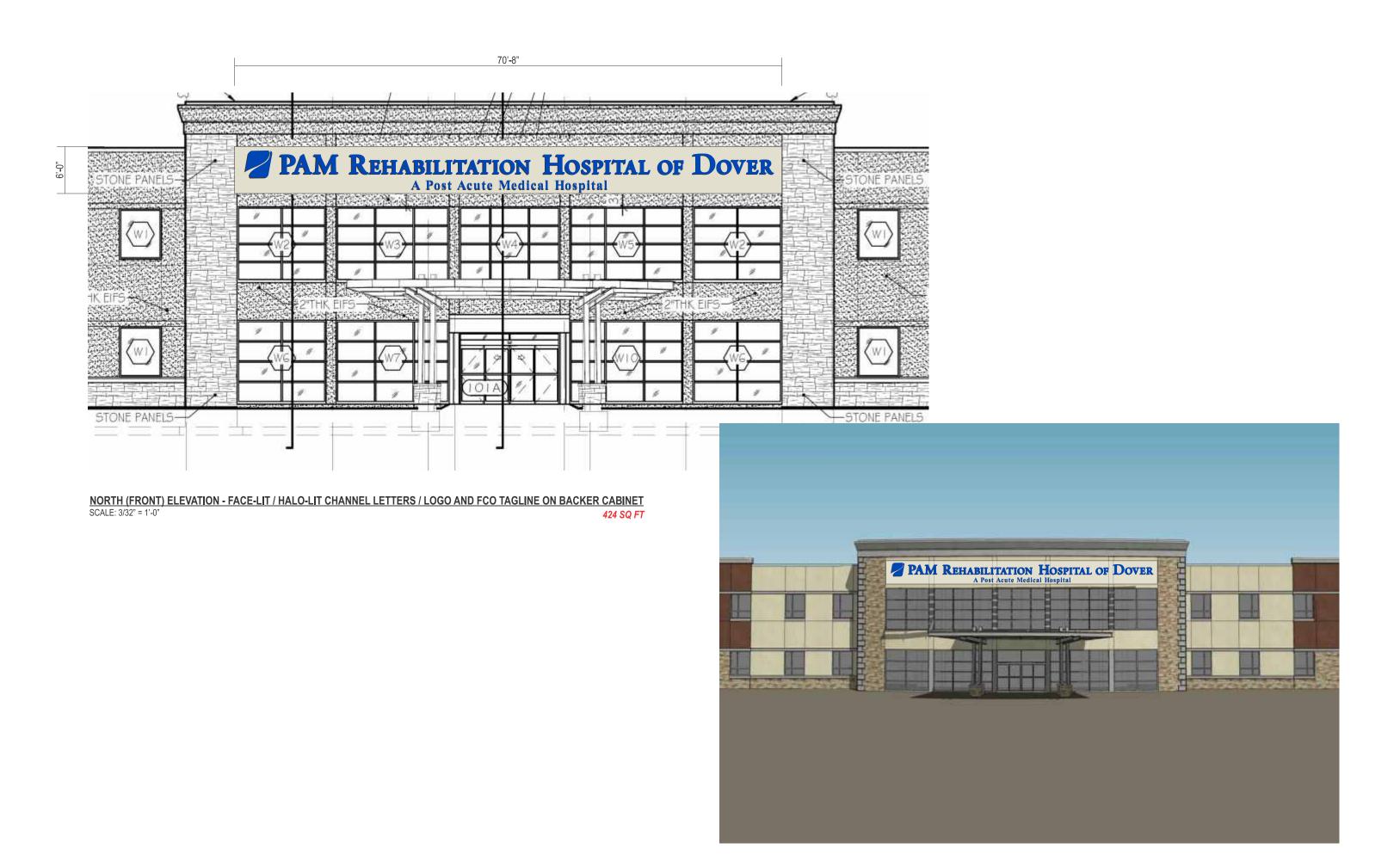
(Printed Name of Property Owner)



A Post Acute Medical Hospital

EXTERIOR SIGNAGE







TYPE A / BUILDING SIGNAGE

FACE LIT / BACK LIT CHANNEL LETTERS W/ LOGO AND TAGLINE

SCALE: AS NOTED

QUANTITY: 1
TOTAL SQ FOOTAGE (BOXED)

BACKER PAN / WIREWAY: FABRICATED ALUMINUM WIREWAY SHOE-BOX PAN CABINET

CABINET PAINTED TO MATCH SW 7688 SUNDEW

ATTACHMENT: ATTACHMENT HARDWARE TBD IN FIELD PER WALL CONDITIONS

CHANNEL LETTERS:

BACKS: CLEAR POLYCARB W/ DIFFUSER FILM

FACES: .177" ACRYLIC W/ 3M DUAL FILM DIGITALLY PRINTED TO MATCH PANTONE 2728c BLUE

RETURNS: .040" x 3" DEEP PTM WHITE **TRIM**: 1" PTM PANTONE 2728c BLUE

ILLUMINATION: WHITE LED

ATTACHMENT: MOUNTED 1 1/2" FROM BACKER PAN

LOGO:

BACKS: CLEAR POLYCARB W/ DIFFUSER FILM

FACES: .177" WHITE POLYCARB W/ 3M DUAL FILM DIGITALLY PRINTED TO MATCH PANTONE 2728c BLUE

RETURNS: .125" x 3" DEEP PTM WHITE

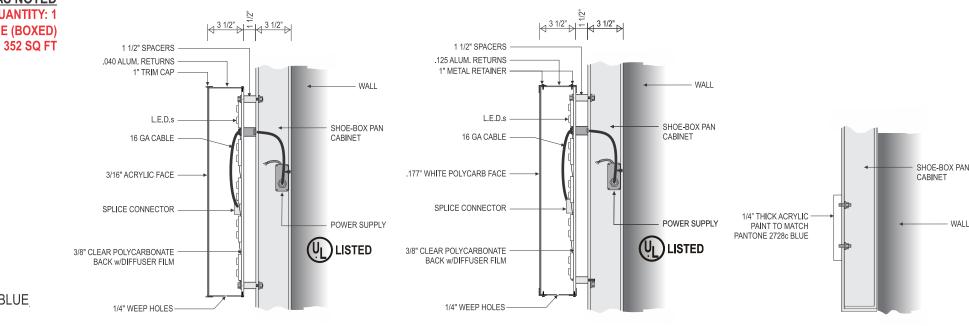
RETAINER: 1" ALUMINUM RETAINER PTM PANTONE 2728c BLUE

ILLUMINATION: WHITE LED

ATTACHMENT: MOUNTED 1 1/2" FROM BACKER PAN

TAG LINE LETTERS:

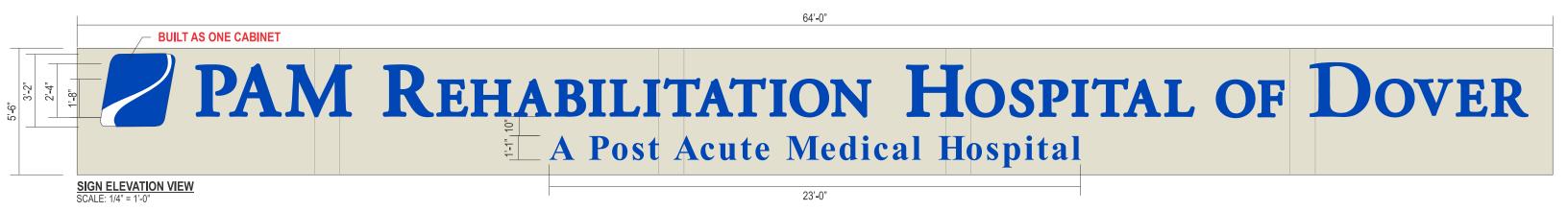
LETTERS: 1/4" THICK WHITE ACRYLIC PAINTED PANTONE 2728c BLUE



SECTION DETAIL - FACE-LIT/BACK-LIT CHANNEL LETTER

SECTION DETAIL - FACE-LIT/BACK-LIT LOGO

SECTION DETAIL - PUSH-THROUGH COPY





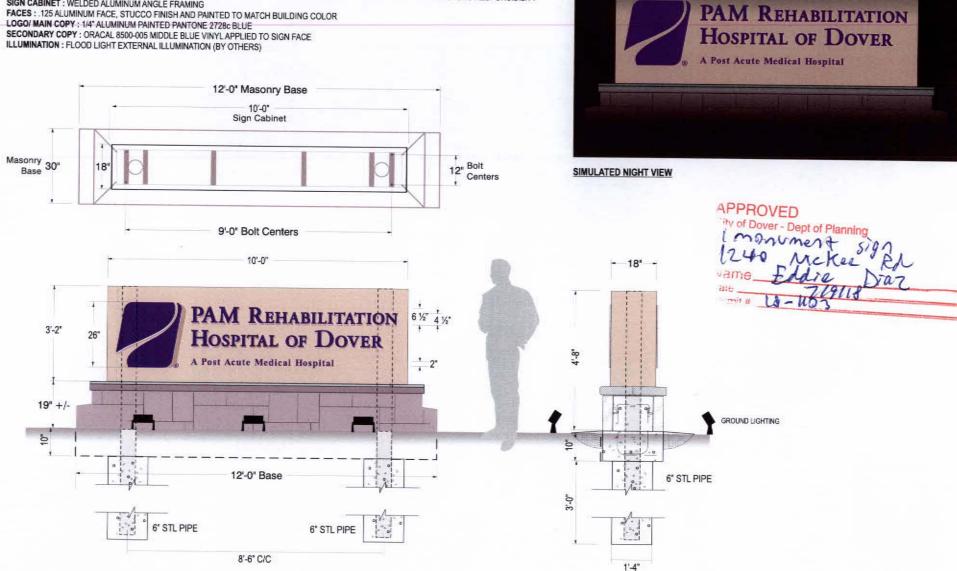
TYPE B / MONUMENT SIGNAGE

D/F EXTERNALLY ILLUMINATED MONUMENT SIGN

SCALE: 1/2" = 1'-0" QUANTITY: 1

BASE: MASONRY BASE AND CAPSTONE BY OTHER CONTRACTOR, ALL FOOTINGS, REBAR & EXCAVATION ARE CONTRACTORS RESPONSIBILITY

SIGN CABINET: WELDED ALUMINUM ANGLE FRAMING



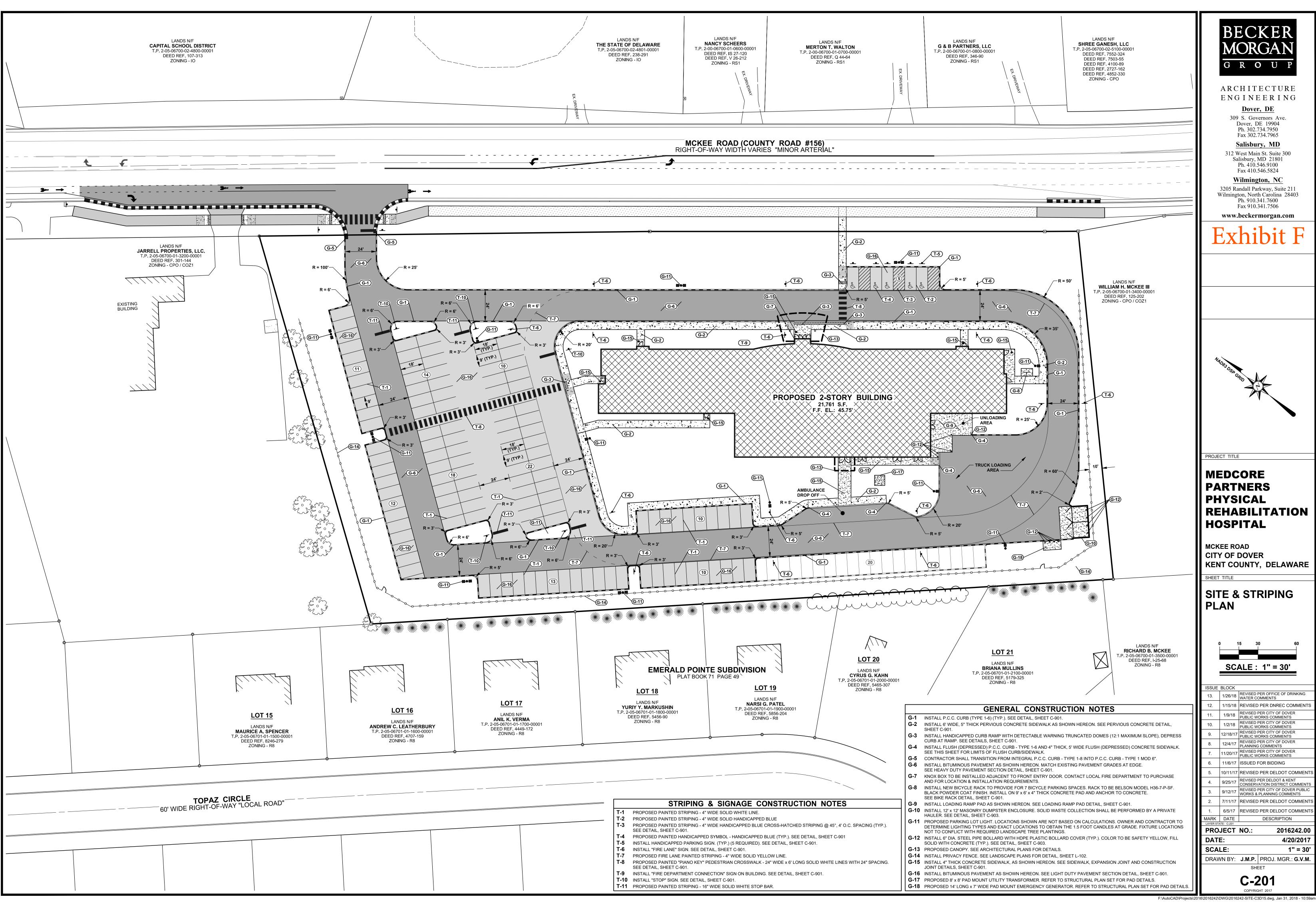
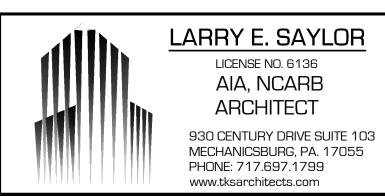


Exhibit G



POST ACUTE MEDICAL FACILITY - NORTH VIEW

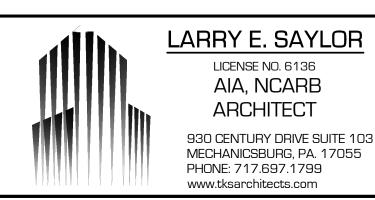






POST ACUTE MEDICAL FACILITY - WEST VIEW

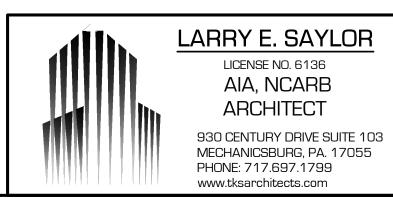






POST ACUTE MEDICAL FACILITY - EAST VIEW

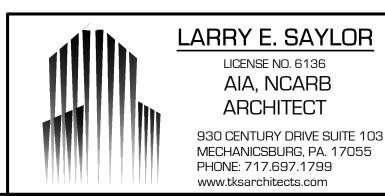






POST ACUTE MEDICAL FACILITY - WEST VIEW







Project Address: 1240 McKee Road Dover, DE

Developer: MedCore Partners & TNRG Development

Operator:
Post-Acute Medical



PAM REHABILITATION HOSPITAL OF DOVER

Dover, Delaware

Dear Property Owner:

This letter and the enclosed documents are to inform you that the development teams of MedCore Partners & TNRG Development have submitted a formal application to the City of Dover. We are seeking a variance for the allowable size of our exterior signage for the development of the Post-Acute Medical Rehabilitation Hospital. Enclosed please find the proposed sign options "A" & "B". McKee Road is classified as an "urban minor arterial" according to the City's Comprehensive Plan, limiting the total allowable square feet of exterior signage.

It is essential to Post-Acute Medical (Hospital Operator) and their patients that the rehabilitation hospital can be easily identified from McKee Road. The photo renderings below will give you an accurate representation of the size and scope of the current sign design. Our sign vendor has conducted a series of tests and confirmed that our proposed sign would have ZERO lighting or glare effects on anything over 150 feet away from the face of the building.

We would like to formally request your support in achieving our request for variance for options (A, B or Both). Our team believes with your signature of approval, we will be successful in acquiring the variance necessary for our project to move forward as designed.

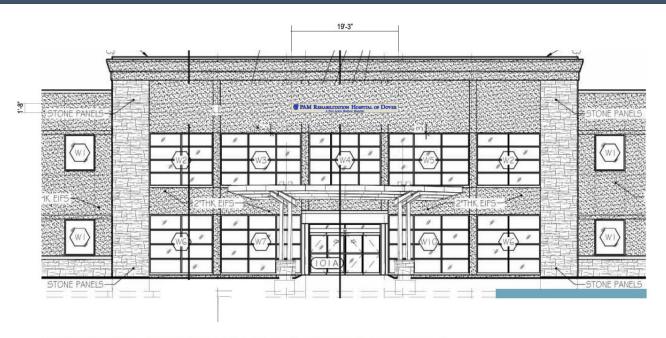
The City of Dover will host a public hearing for all residents and community members on September 19th at City Hall. The conference will be held at 9 AM in the City Council Chambers at City Hall, 15 Loockerman Plaza, Dover, DE.

Once again, your support and influence in the approval of our application for the variance would be much appreciated!

Sincerely,

Michael Graham – Principal MedCore Partners

City of Dover – Allowable Signage



NORTH (FRONT) ELEVATION - FACE-LIT / HALO-LIT CHANNEL LETTERS / LOGO AND FCO TAGLINE ON BACKER CABINET

SCALE: 3/32" = 1'-0"

Full Pan Background Area = 32 Sq. Ft. Live Signage Area = 16.5 Sq. Ft.



Option A - Requested Variance



Option B - Requested Variance









A Post Acute Medical Hospital

SIMULATED NIGHT VIEW



Post-Acute Medical Rehabilitation Hospital

Dover, Delaware

Dover, Delaware	•
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Resident Name & Property Address	8-14-10
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Michael Graham – Principal MedCore Partners	
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Post-Acute Medical Rehabilitation Hospital Dover, Delaware

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	Resident Name & Property Address	Date
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	Resident Name & Property Address	Date
	Resident	
	Resident Name & Property Address	Date
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	Resident Name & Property Address	Date
	Resident	
	Resident Name & Property Address	Date
	Resident	
	Sincerely,	

Michael Graham – Principal MedCore Partners

15 LOOCKERMAN PLZ DOVER DE 19901

Application Number 17-00001629 Page 5
Date 2/06/18

Special Notes and Comments TAX FORM ATTACHED TO BLDG PERMIT February 5, 2018 3:53:15 PM eld.

PLANNING & ZONING COMMENTS:

Permit #17-1629 for a new Physical Rehabilitation Hospital at 1240 McKee Road. Project work involves construction of a 43,522 SF hospital building, parking lot, landscaping and other site improvements identified on Site Plan S-17-05. The required parking is 145 spaces, and the provided parking is 125 spaces; a requested parking waiver was granted at the 3/20/2017 meeting of the Planning Commission. This permit follows up on Permit #17-2215 granted to allow the beginning of site grading work on the property.

The Architectural plan set reviewed for this permit consisted of Permit Plans for the Building last revised on 9/25/2017 and issued for construction on 11/6/2017. The Planning Office grants conditional approval of Permit #17-1629 subject to the following conditions:

- 1. The site improvement activities must be in accordance with the Site Plan S-17-05 as presented to the Planning Commission on 3/20/2017 and subject to their conditional approval. The project is subject to all conditions and advisory comments listed on the Final Site Plan and its Approval letter of 2/5/2018 issued by the Planning Office.
- 2. Other construction activity permits will be required to include submission of other Permits such as Plumbing, Mechanical, and Fire Protection Permits.
- 3. A separate Sign Permit application must be submitted; the exterior signage shown on permit plan sheets such as A2.01 is not authorized by this permit approval. Please note that the signage does not appear to meet maximum size requirements under the Zoning Ordinance.
- 4. Final Inspection by the Planning Office as part of the application for Certificate of Occupancy for this project is required to confirm compliance with the permit as issued and the conditions of the approved Site Plan S-17-05.

CITY OF DOVER PLANNING & INSPECTIONS 15 LOOCKERMAN PLZ DOVER DE 19901

Application Number 17-00001629 Page 6 Date 2/06/18

Special Notes and Comments
5. Any revisions to proposed project activities involving the building exterior and/or site layout may be subject to additional review requirements. Contact Planning Staff prior to implementation to discuss.

August 31, 2017 9:54:09 AM jal.

This project has not received final approval by the City of Dover Department of Public Works. All work will be at the applicant s risk and subject to meet any and all requirements of the Department of Public Works. If site corrections need to be made, it shall be at the sole expense of the applicant.

Fee summary	Charged	Paid	Credited	Due
Permit Fee Total	83227.00	83227.00	.00	.00
Grand Total	83227.00	83227.00	.00	.00

CALL(302)736-7010, (302)736-7011 or (302)736-4457 for scheduling inspections