



**CITY OF DOVER, DELAWARE
BOARD OF ADJUSTMENT MEETING
Wednesday, October 18, 2023 at 9:00 AM**

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

AGENDA

IN-PERSON and VIRTUAL MEETING

This Board of Adjustment Meeting will be held as an In-Person Meeting at City Hall in City Council Chambers. The public is welcome to attend in person. The Meeting will also be provided as a Virtual Meeting using WebEx, an audio/visual conferencing system as an electronic means of communication. See participation information below to join by phone or computer.

PUBLIC PARTICIPATION INFORMATION

To Attend City of Dover Board of Adjustment Meeting of October 18, 2023

Join By Phone Dial: +1-650-479-3208

Access Code: 253 997 00946

Password for Phones: 36837262

Join Online

<https://bit.ly/BOA10182023>

Webinar Number: 2539 970 0946

Webinar Password: DoverBOA

Written comments are accepted via mail to City of Dover – Board of Adjustment,
P.O. Box 475 Dover, DE 19903 and via email at CompPlan@dover.de.us.

If you are new to WebEx get the app now at <https://www.webex.com/> to be ready when the meeting starts. For problems accessing the meeting, please call the Planning Office at (302) 736-7196.

WELCOME

Welcome to new Board of Adjustment member as appointed October 9, 2023 for a Three Year Term to Expire July 2026: Clarence Cobaugh Wagner, II

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Adoption of Meeting Minutes of September 20, 2023

COMMUNICATIONS & REPORTS

Meeting Reminder: The next Board of Adjustment Meeting date is November 15, 2023.

NEW BUSINESS

The following application has been filed for Review and Public Hearing before the Board of Adjustment.

2. **Application #V-23-05**

Lot 8 of the Garrison Oak Business and Technology Center at 451 Garrison Oak Drive. A request has been made for a variance from the requirements of Article 4 §4.16 of the *Zoning Ordinance*. The first Variance request is to reduce the setbacks as it relates to building height allowing a portion of the building to be up to 100 feet in height when only setback 88 feet (front yard) or 60 feet (side yard) from the property lines. The second Variance request is to allow an increase in the maximum lot coverage from 65% to 71%. Subject property is zoned IPM-2 (Industrial Park Manufacturing- Business and Technology Center) and partially subject to the SWPOZ (Source Water Protection Overlay Zone). Property Address: 451 Garrison Oak Drive. The Tax Parcel ID is LC-05-068.00-02-08.00-000. The owner of record is the City of Dover and equitable owner is SLS Equity Partners.

OLD BUSINESS

3. Update on Board of Adjustment Meeting Format

ADJOURN

Posted Agenda: October 11, 2023

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(e)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING

CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
September 20, 2023

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, September 20, 2023, at 9:00 A.M. in person in the City Council Chambers and using the phone/videoconferencing system WebEx. Member's present were Chairman Sheth, Ms. Warren, Mr. Keller, and Mr. Senato. Colonel Ericson was absent.

Staff members present were Mrs. Mary Ellen Gray, Mr. Swierczek, City Solicitor Mr. Rodriguez, Mrs. Savage-Purnell, and Mrs. Melson-Williams.

APPROVAL OF AGENDA

Mr. Keller moved to approve the Revised Agenda to remove the agenda item Appeal #V-23-03. The Appeal #V-23-03 has been dismissed upon receipt of advice from Legal Counsel that the Board of Adjustment does not have Jurisdiction on the Appeal. There will be no consideration of this item and no Public Hearing on Appeal #V-23-03. The motion was seconded by Mr. Senato and unanimously carried 4-0. Colonel Ericson was absent.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF JULY 19, 2023

Mr. Keller moved to approve the meeting minutes of July 19, 2023, with the necessary corrections. The motion was seconded by Mr. Senato and unanimously carried 4-0. Colonel Ericson was absent.

COMMUNICATIONS & REPORTS

Mrs. Gray mentioned that the next Board of Adjustment regular meeting is scheduled for October 18, 2023, at 9:00am in the City Council Chambers and with a virtual format.

OPENING REMARKS CONCERNING APPLICATION

Mrs. Mary Ellen Gray, Planning Director stated that the meeting today will be conducted in accordance with the agenda. There is one Variance application on the agenda under New Business. The Appeal Application has been removed from consideration by the Board of Adjustment given that the Board of Adjustment has no jurisdiction on this Appeal. The Variance application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. The Board may consult with the City Solicitor to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

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

NEW BUSINESS**Application V-23-04**

101 North Queen Street (and 107 North Queen Street). A request has been made for a variance from the requirements of Article 3 §1.14(a)(v) of the *Zoning Ordinance*. The use of the subject properties is as a Place of Worship (Church), which is a conditionally allowed use in the RG-1 Zone (General Residence Zone). The Variance request is to increase in the maximum sum of all areas permitted to be covered by a principal building and accessory buildings from 20% to 56.89% in order to allow for a proposed building addition. Subject properties are zoned RG-1 (General Residence Zone). The Tax Parcel IDs are ED-05-076.08-03-37.00-000, and ED-05-076.08-03-38.00-000. The owner of record for both parcels is A.M.E. Church of Dover.

Mr. Swierczek gave a summary presentation along with the required criteria of the Application Request for a variance from the requirements of Article 3 §1.14 (a)(v) of the *Zoning Ordinance* pertaining to the increase in the maximum sum of all areas permitted to be covered by a principal building and accessory buildings from 20% to 56.89% in order to allow for a proposed building addition. The owner of record for both parcels is A.M.E. Church of Dover.

Mr. Swierczek stated that the Planning Staff does note that for any expansion of the place of worship use, we would advise that even though this is technically considered a nonconforming use that they would be required to go to the Planning Commission to get a Conditional Use approval to allow for the expansion of the facilities. On the screen right now, you are seeing the Site Plan that was submitted by the applicant and that is showing in the hatched outline the current structure of the church. To the top and left of that, you can see the outline of the building addition. Then to the even further top left of that you see a dark kind of squared-out item that is basically the ADA ramp to access the building addition.

Mr. Keller noted regarding the preparation of the reports, it was excellent. Mr. Keller asked for clarification, has there been a substantial enough discussion with the church regarding the subsequent requirements of the Conditional Use application, etc.? Mr. Swierczek replied I believe there has been. I think there were two meetings that we discussed this. One of the meetings was with the applicant and I believe the other was with Staff. We did discuss with the applicant about alternatives. They did show very much willingness to be as compliant as possible with the Code provisions. We did express to them that were they not able to do that, they would need to seek basically the bare minimum of a variance in order to proceed with that. They were very willing to do that as well. So, we were confident that what was submitted to us was the best that they could do to be compliant with the Code while also addressing their needs. Mr. Keller asked so we're comfortable then that they are advised that there are subsequent requirements if in fact there is an approval today on the variance itself. Mr. Swierczek replied correct, it was communicated to them that were the Board of Adjustment to approve their variance requests then they would still be required to go to the Planning Commission to seek Conditional Use approval.

Representative: Mr. Timothy M. Metzner, Associate/Sr. Landscape Architect with Davis, Bowen & Friedel, Inc. and Rev. Dr. Erika D. Crawford, Pastor of Mt. Zion AME Church.

Mr. Timothy M. Metzner and Rev. Dr. Erika D. Crawford were both sworn in by City Solicitor

Mr. Rodriguez.

Chairman Sheth asked if there were any questions or objections regarding Mr. Swierczek's presentation. Mr. Metzner replied no, Staff did an excellent job of the description which he appreciates.

Mr. Metzner stated that he was here on behalf of the applicant our client Mount Zion AME Church. As you know, with us here is the Reverend Dr. Erika Crawford the Pastor for the church. We are offering the following explanation in support of the application for the Area of Variance. Specifically, the nature of the variance request relates to Article 3§1.14(a)(v) of the *Zoning Ordinance* which states that the maximum area for Conditional Use in the RG-1 zone is 20%. As Staff stated, the property is unique as a legal nonconforming lot that was first developed in 1959 as a church prior to the City of Dover *Zoning Ordinance* being established in 1961. The existing building area is currently 44.72%. The proposed building addition would increase the footprint by 1,402 square feet, which is 12.17%. Therefore, the total building area for the site would be 56.89%. As stated, on the screen is our Site Plan and we are proposing to add these proposed buildings as you see. On that top left portion that also provides the additional ADA accessibility. It also isolates the entrance allowing for a more secure entrance as well; so, this is for the health, safety, and welfare of the users. The ramp on the left is proposed to be a wooden ramp so that it would not count toward the lot coverage. The proposed walkway is directly out to the sidewalk. The purpose behind this too is also to bring the ADA ramp closer to the street. The existing ramp was all the way to the right where the existing building ended. We are adding this building addition to provide additional classroom space, office space, a secured entrance to the building, and to provide the ADA accessibility closer to the road and the sidewalk. The following explanation describes how this application meets the four criteria for granting an Area Variance.

As Staff mentioned, in the Report is also our explanation and their responses to that. So, first is the nature of the zone in which the property lies. As stated the property is currently zoned RG-1 (General Residential). Places of worship are permitted use in the zone when conditionally approved by the Planning Commission. The building and the use were established on these parcels prior to the City of Dover *Zoning Ordinance* being established as stated in 1961. The use has not changed since it was established in 1959. It is currently and has been an active church since its construction.

Second is the character of the immediate vicinity and the contained uses therein. There are currently three active churches within one block of this parcel and five active churches within two blocks. Directly across from the intersection of Fulton Street and North Queen Street is Calvary Baptist Church which is also an active church as well. The current building and the proposed addition with the brick façade is consistent with the other buildings within the proximity within a block and even across the street. As Staff stated in their Report, the property is largely in keeping with the surrounding neighboring character as a place of worship, as the height of the structure, and the general characteristics. The proposed structure would be consistent with the existing as it would be a continued as the brick façade and the same roof pitch. All is consistent with the existing structure and consistent with the neighboring uses of the other churches.

Third is whether, if the restriction upon the applicant's property were removed, such removal would seriously affect neighboring properties and uses. As stated, this building was constructed prior to the *Zoning Ordinance* being established and exceeded the building area coverage requirement prior to the Code. The adjacent and neighboring properties also exceed the maximum building area requirement of 20%. So, we're not setting a precedence by doing this. Therefore, this application does not set a precedent for future applications on the neighboring properties.

Four is 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 use under the provisions of the *Zoning Ordinance*. As a great thing, the church membership is improving, which benefits the community it serves; however, the current building footprint cannot continue to serve the needs of the members and requires additional space hence the additional classroom space and office. Not permitting the addition as proposed would have an impact on the day-to-day activities and function of the Church. The addition provides the needed Sunday School classroom space and additional office space. Should this application not be voted upon favorably, a second floor would not be an option. It is not feasible based on the existing structural components of the building. The extensive renovations required to the original building from a structural standpoint alone would be too costly for the age of the building and require a complete reconstruction. Also, the second floor of the building would also make the building out of character with the surrounding neighborhood. The adjacent buildings are single story, and this second floor would then make this building out of character. The addition as proposed adds safety elements such as moving the primary entrances to one end of the sanctuary. Currently, the sanctuary is accessed by two entrances: one at the very front by the roadway that's at the bottom left (on the Plan drawing) and then the other is currently separated into two separate portions of the building. From a safety standpoint, you kind of want to isolate the people entering and exiting the building to one location. This would also provide an increase in the security for the building. The existing ADA ramp is also on the side of the building farthest away from the road. The proposed addition also moves the ADA entrance and ramp closer to the street for easier access. Not allowing the addition would limit the church from improving their current condition and function and safety of the church. In conclusion, the *Zoning Ordinance* was established after this establishment was built and used as a place of worship subjecting this property to a decreased permitted building area. The amendment to the Code has created an exceptional practical difficulty, not created by the applicant, such that the property owner cannot make reasonable modifications to the property that are intended to improve functionality, safety, and access to the existing church. The variance, if authorized, will not alter the essential character of the neighborhood or district that is mixed use in nature. The proposed improvements will also improve safety for the patrons accessing the church. The variance, if authorized, represents the minimum variance that affords relief and represents the least modification possible to improve the church's function and safety. The variances, as requested, are shown on the Site Plan provided with this submission. At this point that finalizes my presentation. Rev. Dr. Erika Crawford agreed with the presentation.

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

Questions from the Board members.

Ms. Warren asked how long into the future do you see this lasting you? I know you don't have a crystal ball. Rev. Dr. Crawford stated in terms of usage, I would hope at least 20 to 30 years because of the ADA ramp. One of the impacts that it has right now is that we have to carry caskets into the church for a funeral and that's not practical for an older congregation. So, one of the things the ramp will do is to allow us to bring caskets into the congregation area. So, I would easily say 20 to 30 years given the growth of the church at this point.

Ms. Warren stated that I heard "safety" mentioned quite a bit, so can you explain. Mr. Metzner replied that right now the existing entrances are separated essentially into two separate portions of the building. So, there's this one and then the other main entrance into the sanctuary is down there at the bottom (referring to the plan drawing). So, you have two separate entrances to monitor. This edition pulls the entrances together essentially at the same location visually because the other existing entrance in the back was through the sanctuary, around the corner and into a hall. It's very difficult to monitor who enters and exits the building. Rev. Dr. Crawford replied that the current second entrance on what we call the garden side. The entrance is at the choir loft in the pulpit which is not practical if you're preaching the sermon while people are coming in through that side door. So, moving the door will allow us to visibly see who enters the sanctuary and not have them enter walking directly into the choir loft in the pulpit. Mr. Metzner mentioned and to see who's late at church (laughing).

Chairman Sheth replied that it is a requirement for the non-conforming use as well as the ADA rules and regulation. He asked if he was right, and Mr. Metzner replied that's correct.

Mr. Senato stated that he did not have any questions; it was an excellent presentation.

Mr. Keller stated that it is noted in the project description for this variance request "the variance request is to increase the maximum sum of all areas permitted to be covered by a principal building and accessory buildings from 20% to 56.89% in order to allow for a proposed building addition." I just wanted to reiterate and point out that those numbers seem to be kind of a drastic increase; however, the existing principal building coverage is 44.72%. So, this addition, I note is only a 12.17% increase in the coverage area. So, it's not as drastic as what might otherwise appear hearing that first number, which is a good thing. Mr. Metzner mentioned that the information was in the Staff Report, but I might be able to answer or clarify that a little bit. Is that the purpose I guess behind that 20% is what the Code is currently? So, as you stated, as it is today that the building is 44.72%. That would just be a clarification thing. Again, Staff will probably better explain that, but I think that's what it's for is just to say the code was going from 20% to 56%.

Mr. Keller stated that perhaps it's notable that the coverage is also a legal non-conforming matter. So, it's okay by virtue of the date of the inception of zoning. Davis, Bowen & Friedel, Inc's. formulation of the project involvement and projection was very well prepared. I appreciate that. Mr. Metzner replied thank you.

Chairman Sheth opened the public hearing.

Chairman Sheth asked that all in the audience that were in favor of the project to please raise their hand. Seventeen (17) individuals were in favor.

Chairman Sheth asked that all in the audience that were against the project to please raise their hand. There were none.

All the people in the audience were in favor of the project.

Chairman Sheth stated that since there was no one against the project in the audience he asked if they could please select one person who can represent all of you who can speak in favor of this project. Then we don't have to go again and again and take notes.

Mr. Reginald Maze was selected to speak on behalf of the audience. My address is 7 Freedom Drive, Dover Delaware in Bicentennial Village.

Mr. Reginald Maze was sworn in by City Solicitor Mr. Rodriguez.

Mr. Maze stated that he just wanted to bring up a point about what Ms. Warren said about safety and security considering the church. He stated that he was a Trustee at Mt. Zion and part of what I have to do is to ensure the safety and security of the parishioners.

I just want to emphasize that the church in general or all churches are under attack from outside sources. So, we are really concerned besides just expanding the building and the project about the security of everyone in the building in and out. So, in saying that, I just want to make sure that everyone understands that the churches in general across the nation are under attack. We want to make sure that the parishioners and the community at-large are safe and secure when they enter and exit the building. That's all I wish to add, thank you very much.

Chairman Sheth mentioned that he hopes the audience agrees with him and what he says. Everyone in the audience agreed. Chairman Sheth stated very good.

Chairman Sheth asked again since he did not see any hands against the project the first time he asked.

Mrs. Melson-Williams, the host stated that since we are presenting this meeting virtually there are two participants that have joined us virtually. I need to check to see if they need to speak regarding this public hearing. I have two attendees, Brian, do you wish to speak regarding variance application V-23-04. Brian replied no.

There is a Call-in User that has phoned into the meeting. Do you wish to speak on this application V-23-04 for the Mount Zion Church. Again, this is for a Call-in User do you wish to speak regarding this application? If you could answer. Again, I'll give another chance to the Call-in User #2. You have to unmute yourself and if you can answer if you wish to participate. Mr. Chairman I'm not seeing any interaction from Call-in User #2. That is all the attendees that are joining us virtually. The other members that are on the meeting virtually are our Staff Representatives. Chairman Sheth said thank you.

Chairman Sheth stated that he along with Mr. Rodriguez and Mr. Swierczek discussed why do we continue this virtual presentation. It was during the pandemic time. If people don't have time, if they are concerned to come and present themselves number one. Number two, we don't know what they are getting support from somebody else sitting next to them or whatever they do. We do not have anything to say. I want your ruling that as long as there is no pandemic thing, that we all get together which is allowed by government. I don't think this Board should continue the virtual hearing. Those who joined virtually said no and did not answer the question. They didn't bother to come here or didn't bother to answer the phone. It's my personal feeling and I wanted to see the feeling of the Board members that we should not continue virtual hearings. Because all the hard-working people that are concerned about it- against or in favor, they present themselves. We don't know who they are; when they call in by virtual and/or then don't show up anyway. My suggestion and recommendation are to let Mr. Rodriguez give the ruling on it. At the same time, I'm sure that Mrs. Gray and Mr. Swierczek as a staff member (have thoughts) about this discussion. Can I ask the question to the Board first?

Mrs. Gray stated that for the point of order perhaps we should first conclude the matter of the application first and go through the agenda and perhaps have this discussion after these agenda items have been concluded.

Chairman Sheth stated that he agreed with Mrs. Gray. I am not asking now but once we are ready, we're going to tell it. But at the same time, I gave you time to think about it.

Chairman Sheth closed the public hearing after seeing no one else wishing to speak (online or in the meeting room).

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

Chairman Sheth asked if there were any questions or comments.

Mr. Keller moved to approve variance application V-23-04 Mount Zion AME Church based on what I consider the documentation presented, the testimony given, and the very good preparation by the consulting firm for the church as well as the detailed and exhaustive overview by the members of the Planning Office. The documentation is well presented and fully supports in my estimation the approval for this requested variance, I so move. The motion was seconded by Senato and unanimously carried 4-0. Colonel Ericson was absent.

Chairman Sheth stated that he really agreed with you and the Board. The Trustee of the Mount Zion AME Church, the presentation people, and Mr. Metzner did an excellent job and I appreciate the way you guys did it. So, congratulations that this Board is approving it.

Chairman Sheth stated that Application V-23-03 has been dismissed for the record.
(Appeal V-23-03)

S-23-06 College Road Apartments at Railroad Avenue/Grove Street – On June 20, 2023, the Planning Commission granted conditional approval of the Site Development Plan and Lot

Consolidation Plan for construction of two 6-story midrise apartment buildings with a total of 385 units consisting of studio, 1-bedroom, and 2-bedroom units. The ground level of each apartment building is parking and the other site improvements include six 7-car garage buildings, parking lots, landscaping, and recreation areas. The Project also includes street construction/improvements to Raymond Street and Railroad Avenue. A Lot Consolidation Plan will combine the four parcels located east of Railroad Avenue for a total of 31.08 acres of land. These properties are zoned RG-5 (General Residence Zone for Mid-Rise Apartments). The subject area is located north of, but not adjacent to College Road, and east of the Railroad corridor in the vicinity of Raymond Street, Railroad Avenue, and Grove Street. Property Owners: Patel College Properties, LLC and Patel Excess College Road, LLC. Tax Parcels: ED05-067.00-02-53.00-000, ED-05-067.00-02-54.00-000, ED-05-067.00-02-55.00- 000, and ED-05-067.00-02-56.00-000. Council District 4.

Mrs. Gray stated that the Appeal V-23-03 has been dismissed upon advice from Legal Counsel that the Board of Adjustment does not have jurisdiction on this Appeal. There will be no consideration of this item and no Public Hearing held on this Appeal V-23-03. This written determination will be provided to the Appellant.

Chairman Sheth would you like me to read, or Mr. Rodriguez would you like me to read the statement of facts into the record? City Solicitor Mr. Rodriguez replied that he did not think it was necessary.

Chairman Sheth continuing the discussion regarding the virtual hearing for the next meeting, I personally think those who have a public hearing should come personally. Because this ordering was or whatever was strictly for pandemic and because of the ruling that we didn't have any meeting in person and now we do have meetings.

So, I don't think we should have that virtual hearing.

City Solicitor Mr. Rodriguez stated that he really doesn't think it's necessary Mr. Chairman. I think you are right. Chairman Sheth thanked City Solicitor Mr. Rodriguez.

Chairman Sheth stated that he discussed this with the mayor; and of course, he discussed it with Mrs. Gray and Mr. Swierczek that there was some duration regarding the state ruling. So, could you please let us know.

Mrs. Gray stated that we would be happy to look into it. The State statute is a little thick. Mrs. Melson-Williams pulled it off the website yesterday and we just started looking at it. We would like the opportunity to review it to make sure that we are not in contravention of the State law to not offer the virtual option. Chairman Sheth said thank you.

Chairman Sheth asked the Board members, so what are your feelings.

Mr. Senato stated that I concur with you but most of the Zoom programs and non-meetings were because of the COVID situation. I can understand that, but we are far from that now. I think in the past prior to COVID when everyone did appear here, we received a lot of comments that

were both negative and positive. They were explained very clearly on either side of the opinions of the people that came in front of this Board. I believe that anytime we have this type of situation that it should be in person. The COVID situation to me is over. I don't know if we need a motion for that or just to check, but that's my opinion and I agree with you.

Chairman Sheth stated that we may not have motion right now because Mrs. Gray mentioned that she is going to find out. City Solicitor Mr. Rodriguez's opinion you heard already that he is in our favor of this suggestion.

Ms. Warren commented that she uses the Zoom virtually for the City of Lewes because I'm on a board that's called LBC. There are a lot of non-residents in Lewes DE, and we want our voices heard. We can't always get to the meetings. I see you guys there all the time. So, it's crucial for those of us at a distance. So, there could be people that are at a distance that are affected, and they can't make it to the meeting. So, I feel pretty strongly that if it may not be the same situation in Dover but it sure is in Lewes.

Chairman Sheth stated that the restriction here is only people can present are those who've been notified or 200-feet surrounding the location. It is not anyone. Ms. Warren said okay.

Chairman Sheth noted that I like to say whether I'm against or in favor, but I can't present myself because I'm not living (according to ordinance) in the area.

Ms. Warren stated that it was a good point, thank you.

Chairman Sheth stated that Mrs. Gray will let us know what is allowed or not allowed, then we will decide whether to do it or not.

Mr. Keller made a motion to adjourn the meeting. It was seconded by Mr. Senato at 9:58 A.M. and approved by consensus.

Sincerely,

Maretta Savage-Purnell
Secretary



City of Dover

Board of Adjustment

October 18, 2023

V-23-05

Location: Lot 8 – Garrison Oak Business and Technology Center, Dover DE
451 Garrison Oak Drive, Dover, DE

Owner: City of Dover
Equitable Owner: SLS Equity Partners

Tax Parcel1: LC-05-068.00-02-08.00-000

Application Date: September 15, 2023

Present Zoning: IPM-2 (Industrial Park Manufacturing - Business and Technology Center)
SWPOZ (Source Water Protection Overlay Zone: Tier 2 Primary Wellhead Protection Area)

Present Use: Vacant

Reviewed By: Katherine Oehmke, Planner I
Dawn Melson-Williams, AICP, Principal Planner

Variance Type: Area Variance

Variances Requested:

- Reduce the setbacks as it relates to building height allowing a portion of the building to be up to 100 feet in height when only setback 88 feet (front yard) or 60 feet (side yard) from the property lines.
- Allow an increase in the maximum lot coverage from 65% to 71%.

Project Description

The Applicant (Equitable Owner: SLS Equity Partners) is requesting two area variances from the requirements of Article 4 §4.16 of the *Zoning Ordinance*. The first Variance Request is to reduce the setbacks as it relates to building height allowing a portion of the building to be up to 100 feet in height when only setback 88 feet (front yard) or 60 feet (side yard) from the property lines. The second Variance Request is to allow an increase in the maximum lot coverage from 65% to 71%.

The subject location at 451 Garrison Oak Drive consists of a single parcel known as Lot 8 in the Garrison Oak Business and Technology Center (previously known as the Garrison Oak Technical Park). The proposed building will be a bulk cold storage and distribution facility with associated parking and stormwater management improvements. The new building would be subject to the Site Development Plan review process with the Planning Commission.

Property and Adjacent Properties: Zoning and Land Use

The subject property totals 11.53 acres (502,145 SF) in land area and is zoned IPM-2 (Industrial Park Manufacturing-Business and Technology Center). This parcel is in the northeastern portion of the Garrison Oak Business and Technology Center (GOBTC) which is a fifteen (15) lot subdivision for industrial, business, and technology related development.

The Lots in the GOBTC are likewise zoned IPM-2 (Industrial Park Manufacturing-Business and Technology Center) except for along the subject parcel's southern property line, which is a tract owned by the City of Dover. It is zoned ROS (Recreational and Open Space Zone) and serves as an open space area within the overall GOBTC with tree plantings and also protects a floodplain and drainage system in the area. Only certain lots have been developed within the GOBTC. These include the Dover Sun Park and the Garrison Energy Center located across Garrison Oak Drive to the north. Uzin Utz (a dry mortar plant facility on Lot #12), Advantech (office and light manufacturing facility on Lot #13), and a proposed City of Dover Electric Substation are in the southwest portion of GOTBC. And in the easter portion of GOTBC a proposed warehouse facility as Byler's Warehouse is completing the Site Plan review process for development on Lot #2.

The eastern half of the subject property (Lot 8) is subject to the SWPOZ (Source Water Protection Overlay Zone: Tier 2 Primary Wellhead Protection Area. It is subject to the provisions of *Zoning Ordinance*, Article 3, Section 29.8. Certain uses are prohibited in the SWPOZ. The SWPOZ Tier 2 - Primary Wellhead Protection Area Lands are additionally subject to specific rules for protection of potable water supply well fields. Specific requirements are for areas immediately surrounding the actual wellhead location; there is not a wellhead on or within 500 feet of this property. There are provisions related to management of stormwater runoff and its discharge requiring use of sheet flow through grassland areas and certain construction features of stormwater management facilities.

A Zoning Map Exhibit (Exhibit A) prepared by Staff is attached to this Report. It shows the subject properties location and surrounding zoning.

Code Citations

IPM-2 (Industrial Park Manufacturing - Business and Technology Center)

Zoning Ordinance, Article 3 Section 20A lists the permitted uses, conditional uses, and other provisions of the IPM-2 zone. In Article 3 Section 20A.16, it notes for the IPM-2 zone that the proposed use of a bulk cold storage and distribution building is allowable as a type of "Warehousing, transshipment and distribution, and logistics support and trucking terminals."

The IPM-2 development requirements include the following chart of the bulk standards as found in *Zoning Ordinance*, Article 4 Section 4.16. The two highlighted standards are the two variances requested regarding height and lot coverage.

Article 4 Section 4.16. - M, IPM zones.

Bulk and parking regulations for industrial zones in M and IPM zones are as follows:

For All Permitted Uses	IPM2 (Business and Technology Center)
Lot area	10 acres
Lot width (ft.)	100
Lot depth (ft.)	100
Front yard (ft.)	60
Side yard (ft.)	40
Rear yard (ft.)	40
Side or rear yard which adjoins a residential zone (ft.)	100
Off-street parking space:	
Per 800 sq. ft. of floor area	1
Per employee, per largest working shift (if greater than the requirement under the floor area calculation)	1
Maximum permitted:	
Building height	
Stories	Not limit
Feet	Equal to distance to nearest lot line
Floor area ratio	0.5
Lot coverage	65%

Additionally, the following definitions are part of the *Zoning Ordinance*:

Height: The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat and mansard roofs and to the mean height between [the] eave and ridge for other types of roofs.

Impervious surfaces: "Impervious surfaces" are those that do not absorb rain. All buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete and asphalt shall be considered "impervious surfaces" within this definition. In addition, other areas determined by the engineer to be impervious within the meaning of this definition will also be classed as "impervious surfaces."

Lot coverage: 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.

Applicant's Proposed Project

The Applicant has submitted a Site Plan Set (Exhibits C and D) and Architectural Warehouse Photo Examples (Exhibits E & F). These plans/drawings depict the proposed building placement, the setbacks of the site, and other site improvements as currently proposed. The building footprint is shown as 165,000 SF+/- . The building is placed with a front yard setback ranging from 62 feet to 88 feet from Garrison Oak Drive. Its closest side yard setback is 60 feet from the

west property line. There are portion of the north and west sides of the building which are not located the minimum of 100 feet from the closest property lines in order to be constructed at a height of 100 feet; this is one of the variances sought. With the building and the paved fire lanes, vehicle and truck parking areas, the property is proposed to have 353, 697 SF (8.12 acres) of impervious surfaces which is approximately 71%. This increase in lot coverage is the second variance sought.

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 part of the Application, the applicant was asked to summarize how the requested variance relates to the above criteria. The applicant's response along with a staff assessment of the application in accordance with the required criteria is provided below.

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

Applicant Response:

"The parcel subject to this request is zoned IPM-2 and lies on the northeast side of the Garrison Oak Business and Technology Center."

Staff Response:

The subject property is zoned IPM-2 and is part of the Garrison Oak Business and Technology Center where the lots are zoned IPM-2 with the exception of a ROS zoned property that runs along Lot #8's south property line (and to the south) that contains a Special Flood Hazard Area (1% Annual Chance Flood/ 100-year floodplain), drainage areas and other open space. The subject property is also partially within the SWPOZ (Source Water Protection Overlay Zone: Tier 2 – Primary Wellhead Protection Area)

where there are additional restrictions on certain uses and development limitations and requirements if project is within certain distances of a wellhead.

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

Applicant Response:

“The subject parcel is located within a planned industrial and technical park. The surrounding parcels are all zoned IPM-2 and are in various states of development. Although located on adjacent parcels, the areas to the parcels south are open space and stormwater management areas for the Technical Center.”

Staff Response:

This is a planned industrial park subdivision with a loop road (City street) known as Garrison Oak Drive which serves all the Lots. Currently, there are four (4) sites within Garrison Oak Business and Technology Center that have been developed: Dover Sun Park (a solar farm); Garrison Energy Center (electric generation facility); Uzin Utz (manufacturing); Advantech (office and light manufacturing); and a planned City-owned Electric Substation. One other Lot has received conditional approval from the Planning Commission for a Site Plan to develop a warehouse facility of 30,000 SF+; its Final Plan approval is expected in the next week. Additionally, development plans have been submitted for review for another logistics/trucking terminal facility. The rest of the lots are still owned by the City of Dover or may be under contract for pending sales.

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

Applicant Response:

“Removal of the restriction from the setback requested on the property would not adversely affect the neighboring properties. The closest neighboring parcels to the west and south of the subject parcel are lots 9 and 3 respectively. The building envelopes of these two lots are roughly 200' away from the common parcel line. The intent of the setback requirement is to provide spacing of the structures within the park between the properties. There is no adverse impact to either of the surrounding Lots as natural features and sewer infrastructure on both lots prevent the construction of structures within close proximity to the shared parcel line. Separation of the buildings would remain at least 260 feet apart, depending on the layout.”

Staff Response:

Planning Staff acknowledges that the neighboring parcels are not yet developed that are adjacent and located on the same side of the street. There are the solar field and the energy generation facility already existing to the north across Garrison Oak Drive. With the adjacent open space parcel running the full length of the south side of the property, it is encumbered by a Special Flood Hazard Area (100-year floodplain) in which the *Zoning Ordinance* is prohibited from development. The proposed placement of the building on this property meets the setbacks from property lines for the IPM-2 zone. However, for this zone the height of a building is also regulated by a setback of sorts. Even allowing a building height of up to 100 feet would not impact the adjacent properties as the lot areas

immediately adjacent are limited in their development potential for placement of the building due to utility infrastructure/easements and floodplain areas. There is not a parcel currently under development that would be impacted by this current plan proposal. The lot to the west has not yet been sold or planned for development. The lot south of the open space has also not been planned for development as of yet beyond the water tower located there. The open space tract to the south zoned ROS, is roughly 200 +/- feet away from the start of the next parcel; therefore, the requested variance should not impact the future developers of that land.

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:

“The development of the property as proposed would be impacted if the restriction is not removed as it would limit the potential end users in an already narrow market. These cold storage facilities are located across the country and designed to provide shorter transport times for perishable goods between the producer and the end user. The stored items include products like fruits and vegetables, fresh meat, etc. These facilities can vary in size and shape depending on the end user. The intent is to create a development package for the developer to utilize for end user. The City of Dover began this process by creating the Technology Center more than 13 years ago by subdividing the land, building the roads, and infrastructure, and we are intending on continuing that effort by providing a lot ready for a facility. Removal of the restriction would not alter the essential character of the neighborhood or corridor in the area as this is a planned industrial park/center which can be developed in a number of different uses. Currently the center contains two power generating station, (solar and Gas Fired), Manufacturing Plant (Uzin Utz), and Advantech's corporate headquarters. These buildings or facilities vary in both shape and size, this new facility would not alter that character.”

Staff Response:

Planning Staff notes that this is an industrial park where large scale buildings and truck parking areas are expected. The design of the site appears to maximize the building size while also providing the on-site circulation, fire lane coverage, and space for on-site maneuverability of trucks for loading activities. By allowing the building height of up to 100 feet to be closer to the property line, it will provide interior volume for storage (vertical storage) rather than increasing the building footprint to achieve the same capacity. The applicant has annotated a Site Plan to identify the surface area that would need to be removed to comply with the lot coverage limitations of the IPM-2 zone. The larger coverage version (at ~70%-71%) provides 18 additional automobile parking spaces and 24 truck parking spaces at the south end of the parcel with is adjacent to the ROS strip of land that runs along the south side of the lot. Given that this lot is being developed for an undetermined future prospective client, it is not known how much of this additional parking would be necessary for the end-user. However, the additional truck parking area (not at the loading dock) would allow for more functionality to building operations for staging of trucks on-site. It is noted that the paved width of Garrison Oak

Drive does not accommodate on-street parking. The regular (car) vehicle parking requirement rate is based on building floor area size and the applicant could seek a waiver to reduce the parking space requirement from the Planning Commission which could remove some areas of impervious surface.

Variance Recommendations

Staff recommends **approval** of the variances for a reduction in the setbacks related to building height and for the increase in lot coverages based on the applicant's response statements our earlier findings outlined in this report and as noted below.

Planning Staff finds that development of this Lot is subject to the IPM-2 bulk standards; however, there are some limitations as to the parcel's shape and needs for on-site operations that may warrant approval of the variance requests. This property is in a unique spot where it is basically a corner property due to the curvature of the street. Also, due to the encumbrances on the adjacent properties, it can maintain increased distances from other potential buildings on other Lots by nature of this Lot's location, the floodplain, the utility easements, and open space areas.

Lot coverages were designed to help with drainage and flooding issues in the future by having area available for water to be absorbed into. The lot has a sizable undeveloped area that will not be built upon in its southeast corner. The overall GOTBC has a regional approach to stormwater management that was planned for a lot coverage of 65% per lot; so, any increase will likely warrant additional stormwater management facilities to be implemented on the individual lot.

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.
- If the requested variance is granted, the Applicant must still obtain the appropriate Site Development Plan and construction activity Permits approvals for construction of a Building on the property. A Site Development Plan for a building of this size requires an application and review process involving the Planning Commission. Contact the Planning Office to discuss steps for application submission.
- The Applicant should be aware that whenever the Board of Adjustment denies an application for a variance, such application for a variance, or an application on the same property, which is substantially similar, shall not be accepted for reconsideration by the Board of Adjustment sooner than one year from the date of denial (*Zoning Ordinance*, Article 9 §3.8).
- Noting the proposed building height, Planning Staff reminds the applicant of compliance needs with all applicable Federal Aviation Administration, State, and other associated aeronautics related height restrictions, obstruction marking and lighting standards for during construction and for the actual building.

GUIDE TO ATTACHMENTS

Exhibit	Description/Author	# Pages
---	BOA Application Form	1
A	Zoning Map Exhibit (Staff)	1
B	Applicant's Written Responses: Letter of September 15, 2023	4
C	Site Plan (Exhibit 1-Building Restriction Line Affected Area).	1
D	Site Plan-Impervious Coverage (Exhibit 2)	1
E	Warehouse Photo Example 1 (Aerial View of Building with Parking Lot & Loading Dock area)	1
F	Warehouse Photo Example 2 (View of Building)	1



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

Area Variance
Use Variance
Appeal
Pre-App Date

Item 2.

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CITY OF DOVER
 PLANNING & INSPECTIONS

Board of Adjustment Application

Application Information

Property Address: 451 Garrison Oak Drive, Dover, DE 19901 (Lot #8)

Tax Parcel Number: LC-05-068.00-02-08.00

Owner Name: City of Dover

Property Zoning: IPM-2

Variance (s) Requested: Increase in max lot coverage

~~Building Setback Encroachment~~

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

Area Variance

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

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

Signature

I David S. Hugg, III do affirm that I am the property owner on which the variance is sought and that all the information provided in this application is accurate to the best of my knowledge and belief.

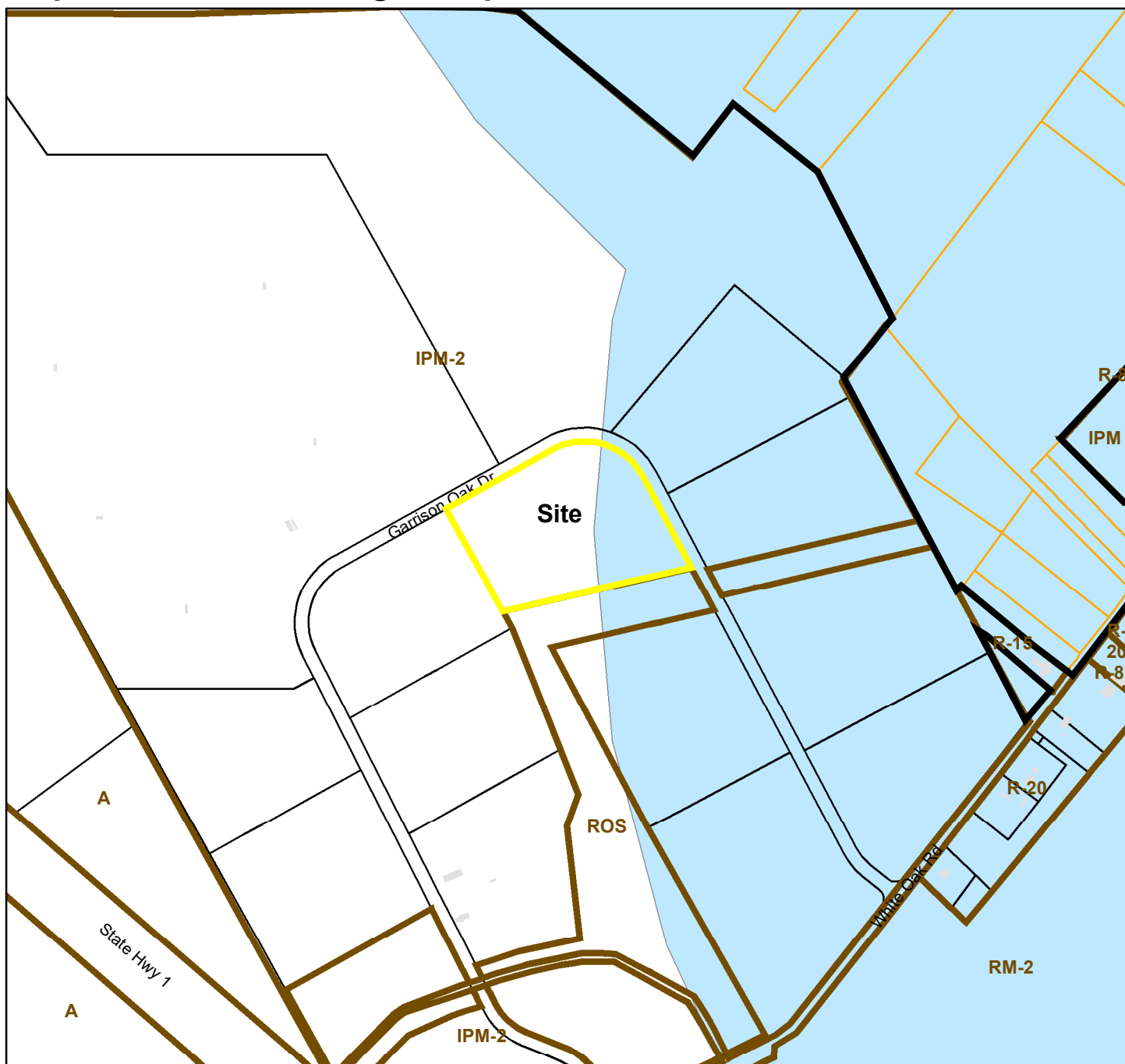
City Manager

09-15-2023

Signature

Title

Date



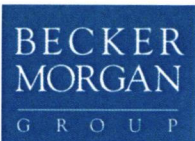
Title: Garrison Oak Business and Technology Center Lot
 Addresses: 451 Garrison Oak Dr.
 Parcel IDs: LC-05-068.00-02-08.000
 Zoning: IMP-2 (Industrial Park Manufacturing-Business and Technology Center)
 Owners: City of Dover/SLS Equity Partners
 Date: 10/11/2023

Legend

- Subject Property
- Dover Boundary
- 2012 Buildings
- Zoning
- Dover Parcels
- Kent County Parcel



0 387.5 775 1,550 Feet



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NEWARK, DELAWARE 19711
302.369.3700

PORT EXCHANGE
312 WEST MAIN STREET, SUITE 300
SALISBURY, MARYLAND 21801
410.546.9100
FAX 410.546.5824

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WILMINGTON, NORTH CAROLINA 28403
910.341.7600
FAX 910.341.7506

www.beckermorgan.com

September 15, 2023

Mrs. Dawn Melson-Williams, AICP
Head Planner
City of Dover Department of Planning
17 Loockerman Plaza
Dover, DE 19901

RE: **Variance Requests**
LOT 8 – GARRISON OAK BUSINESS AND TECHNOLOGY CENTER
Dover, Delaware
2009076.09

Dear Dawn:

On behalf of our client, SLS Equity Partners, Becker Morgan Group, Inc. is hereby submitting two (2) variance requests for the parcel referenced above. The subject parcel is identified as district-map-parcel number LC-05-068.00-02-08.00-000 otherwise known as Lot 8 of the Garrison Oak Business and Technology Center. The following information is enclosed in support of this request:

1. One (1) signed Board of Adjustment Application.
2. One (1) Board of Adjustment Checklist.
3. Eight (8) copies of the Site Plan Exhibits.
4. A check in the amount of \$600.00 (forwarded by the applicant).

SLS Equity Partners, the equitable owner, proposes to develop the property with a bulk cold storage and distribution building, associated parking, and stormwater improvements. These facilities, located across the county, generally range in height from 40' up to 100' feet. The code does not restrict the number of stories that can be built in the IPM-2 zone, nor does it limit height per se. The structure can only be as high as the distance to the nearest property line. To maximize the usability of the site, we are requesting a variance from Article 4 section 4.16 Maximum Permitted Setback Requirement (Maximum setback) Maximum permitted lot coverage. We are requesting a variance in terms of allowing portions of the building, which could approach 100 feet in height, to be constructed closer to the front and side property lines than allowed by code. Additionally, to maximize the use on site, we are requesting a variance to allow for the additional impervious cover over the maximum allowable of 65% to 71%.

The table in Article 4 section 4.16 stipulates that parcels within the IPM-2 zone, contain no limit to building stories but does limit the height "to distance to nearest lot line." In short, the building's height cannot exceed the distance to the nearest lot line. As shown on Exhibit 1, the building shown has been located 60' from the western property line and 88' from the northern property line. As these cold storage facilities tend to approach 100' in height the applicant is requesting that the building be permitted to be constructed no closer than 60' to the western property line and closer than 88' to the northern property line. As the final design of which sections of the building will approach the maximum height of 100 feet, permitting the request would allow the final building height to not be constrained within the footprint shown.

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CITY OF DOVER
PLANNING & INSPECTIONS

Item 2.

Additionally, the table within Article 4 section 4.16 stipulates that parcels within the IPM-2 zone have a maximum lot coverage of 65%. Exhibit B depicts the current preliminary layout for the building, shipping, and lot layout of the facility. To maximize the use of the property for the specific facility, the applicant is requesting that the maximum allowable impervious coverage for the lot be increased to no greater than 71%. The extra 6% will allow for accommodations for both trailer storage and vehicle parking on the lot. While the project, should it go forward, would be requesting a waiver from the planning commission for the amount of parking needed for employees, as code far exceeds the city's requirements. The final plan would work towards reducing that coverage closer to the 65% but would not exceed 71%.

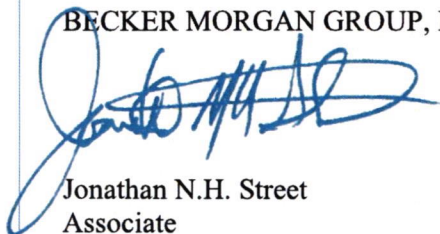
Attached to this letter we have outlined the four (4) criteria concerning the area variance for each. They are titled, "*Setbacks As It Relates to Building Height and Allowable Lot Coverage*". These attachments outline the city's four criteria with regards to, the nature of the zone, the character in the immediate vicinity, whether removing the restriction would adversely impact the neighboring parcels, and the unnecessary hardship to develop the property.

With this application we are requesting to be placed on the Board of Adjustment schedule for October 18, 2023.

Please contact me should you have any questions or require additional information.

Sincerely,

BECKER MORGAN GROUP, INC.



Jonathan N.H. Street
Associate

JNS/rlh

Cc: Shira Weisz, CPA

Enclosures

200907609ad-BOA-ltr.docx

VARIANCE CRITERIA: SETBACKS AS IT RELATES TO BUILDING HEIGHT

1. The nature of the zone where the property lies:

The parcel subject to this request is zoned IPM-2 and lies on the northeast side of the Garrison Oak Business and Technology Center.

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

The subject parcel is located within a planned industrial and technical park. The surrounding parcels are all zoned IPM-2 and are in various states of development. Although located on adjacent parcels, the areas to the parcels south are open space and stormwater management areas for the Technical Center.

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

Removal of the restriction from the setback requested on the property would not adversely affect the neighboring properties. The closest neighboring parcels to the west and south of the subject parcel are lots 9 and 3 respectively. The building envelopes of these two lots are roughly 200' away from the common parcel line. The intent of the setback requirement is to provide spacing of the structures within the park between the properties. There is no adverse impact to either of the surrounding Lots as natural features and sewer infrastructure on both lots prevent the construction of structures within close proximity to the shared parcel line. Separation of the buildings would remain at least 260 feet apart, depending on the layout.

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

The development of the property as proposed would be impacted if the restriction is not removed as it would limit the potential end users in an already narrow market. These cold storage facilities are located across the country and designed to provide shorter transport times for perishable goods between the producer and the end user. The stored items include products like fruits and vegetables, fresh meat, etc. These facilities can vary in size and shape depending on the end user. The intent is to create a development package for the developer to utilize for end user. The City of Dover began this process by creating the Technology Center more than 13 years ago by subdividing the land, building the roads, and infrastructure, and we are intending on continuing that effort by providing a lot ready for a facility. Removal of the restriction would not alter the essential character of the neighborhood or corridor in the area as this is a planned industrial park/center which can be developed in a number of different uses. Currently the Center contains two power generating stations, (solar and Gas Fired), Manufacturing Plant (Uzin Utz), and Advantech's Corporate headquarters. These buildings or facilities vary in both shape and size, this new facility would not alter that character.

VARIANCE CRITERIA: ALLOWABLE LOT COVERAGE

1. The nature of the zone where the property lies:

The parcel subject to this request is zoned IPM-2 and lies on the northeast side of the Garrison Oak Business and Technology Center.

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

The subject parcel is located within a planned industrial and technical park. The surrounding parcels are all zoned IPM-2 and are in various states of development. Although located on adjacent parcels, the areas to the parcels south are open space and stormwater management areas for the Technology Center.

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

Removal of the restriction of 65% to a 71% impervious coverage would not adversely affect the neighboring parcels or the Technology Center as a whole. When the stormwater management for the entire Technology Center was designed, it was assumed that each lot would be developed maximizing the overall impervious of 65%. Any additional increase of impervious cover would need to be managed on site per the State of Delaware Stormwater regulations.

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 previously stated, the development of the property as proposed is looking to provide supply chain style warehousing for the peninsula and the surrounding area. The vast majority of the impervious on site is linked to trailer maneuvering and storage. The types of trailers typically utilizing these facilities are the larger interstate type trailers, known as a WB-67. The spaces needed to maneuver are roughly the same size as the length of trailer and cab causing the drive isles to be between 75-80' in width. These facilities usually contain a one-to-one ratio or even a two to one ratio of loading dock doors to trailer storage spaces. Currently the site has roughly a one-to-one ratio of loading bays to storage trailer bays and we would be looking to maximize this ratio as much as possible for the feasibility of the use. Removing this restriction would allow the site to maximize the amount storage spaces available. If the restriction is maintained at 65%, the trailer storage areas will be removed, and the project as designed not feasible.

tem 2.

Delaware

The Tower at STAR Campus

Maryland

North Carolina

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- IMPERVIOUS: 353,697 SF / 8.12 AC / 70%

- Pervious: 148,448 SF / 3.41 AC / 0.30%

- TOTAL AREA: 502.145 SE / 11.53 AC

- ZONING IPM2: 65% MAX LOT COVERAGE

- 27,303 SF OF IMPERVIOUS OR 18 STANDARD & 24 TRUCK PARKING SPACES MUST BE REMOVED TO COMPLY WITH MAX COVERAGE

LANDS N/F
BLVD ROVER

LOT 8
CITY OF DOVER

T.P.: 4-05-06800-02-0800-00

DEED REF.: 327-136
PLAT REF.: 117-98

11.5277 ACRES ±

LANDS N/F

AREA REQUIRED TO BE REMOVED TO

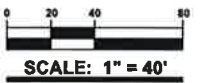
PROJECT TITLE

**GARRISON OAK
LOT 8**

**GARRISON OAK DRIVE
CITY OF DOVER
KENT COUNTY, DE**

SHEET TITLE

**LOT 8 EXHIBIT 2
IMPERVIOUS
COVERAGE**



ISSUE BLOCK

MARK	DATE	DESCRIPTION
PROJECT NO.: 2009076.09		
DATE: 03/28/2023		
SCALE: 1" = 40'		
DRAWN BY: CDC		PROJ. MGR.:

EXHIBIT 2



