

**CITY OF DOVER BOARD OF ADJUSTMENT
JULY 19, 2006**

The Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, July 19, 2006 at 10:00 AM with Mr. Sheth presiding. Members present were Mr. Sheth, Dr. Goate`, Colonel Ericson, and Mr. Hufnal. Mr. Senato was absent.

Staff members present were Mrs. Townshend, Ms. Cornwell and Mr. Rodriguez. Also present was Mr. John Mastrangelo, Mr. Tony MacIntosh, Mr. Jack Evans, and Mr. Grant Prichard.

Dr. Goate` moved to approve the agenda as submitted, seconded by Colonel Ericson and the motion was unanimously carried.

Dr. Goate` moved to approve the regular minutes of June 28, 2006 as submitted, seconded by, Mr. Hufnal and the motion was unanimously carried.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Ms. Townshend advised the audience of policies and procedures for the meeting.

NEW BUSINESS

Applicant #V-06-11:

581 Public Safety Boulevard, Lands of the State of Delaware: The State of Delaware, has applied to the City of Dover Board of Adjustment requesting a variance from the maximum building height requirements of the IO (Institutional Office) Zoning District Bulk Requirements (Article 4 §4.15). Specifically the applicant is requesting a variance to extend the current 120' radio tower to 160'.

Subject property is Tax Parcel ID #ED-05-077.00-01-018-000. The owner of record is State of Delaware.

Mrs. Townshend stated that the legal notice was published in the Delaware State News on July 9, 2006 and the public was notified in accordance with the regulations.

Mr. Sheth questioned whether there were any members that had a conflict of interest and there were none.

Representatives: Mr. John Mastrangelo, 1501 Warton Road, Mount Laurel, NJ, 08054; and Mr. Tony MacIntosh, Motorola.

Mr. Mastrangelo stated that this parcel is approximately 123.84 acres and the need for the height on the extension of the tower is for the equipment that is being placed on the tower for what is emergency 911 radio equipment and the antennas that need to be above the 120 foot height in order to communicate with other radio tower communications sites in the State of Delaware.

Mr. Mastrangelo further stated that inside an existing fenced in compound on the property they will be placing an 11x32 equipment shelter which will house the radio equipment as part of the

overall project. There will also be a 100 watt diesel generator on the property as well. In order to put the shelter in place, we will be extending the fenced in area so that it will then be 15x54.

Mr. Sheth questioned if the 300 feet would be required?

Responding to Mr. Sheth, Mr. MacIntosh stated that with regards to the DSHP tower, they will also be adding upgrade dishes and other antennas to the existing structure and they will not need to go any higher. This is a statewide project incorporating a number of city's to ensure that we have seamless interoperability throughout the State, Fire, EMS, First Responders, and DelDOT. It is a major project that involves all of those cities's and will be the hub. We will be touching each individual system that is here whether or not we add dishes to the system or we do minor modifications to the existing radios. This gives us the capacity to allow for better traffic and more penetration. When we get into the specific DelDOT sign shop tower that is speaking to other towers, it becomes a line of sight issue which then requires us to request the variance to get the height that we need to transmit.

Mr. MacIntosh further stated that they have the maximum height that they need at the DSHP tower with the capability that they need. The current plan that we have in place is to swap some existing dishes for high performance or better capacity dishes and to change some existing transmission lines that currently exist. The impact on this tower is negligible.

Dr. Goate` questioned if there would be any possibility that what you are requesting could be a danger to the public? Responding to Dr. Goate`, Mr. MacIntosh stated that no, the systems that are currently in place are the systems that we are using and plan on installing, re-installing, and upgrading. What we are upgrading to is greater capacity and greater efficiency. We have equipment that was installed a couple of years ago; however with new technology out that utilizes the same basic premise there is much more efficient and better redundancy. What they would like to do at the new site would be to allow for greater back-up power on their generator systems so if they lose power, the system can still run for days. What you have now, from an emergency standpoint, will be greatly increased; however, impact to the public is nothing.

Mr. Sheth questioned if they absolutely needed this power? Responding to Mr. Sheth, Mr. MacIntosh stated that they ran coverage maps, computer simulated maps, that tells them what the worse case scenario would be and from that, they build redundancy into the system by putting in specific radio systems to handle different situations. We tried to map out future growth for this area based on budget and tried to come up with the best workable solution.

Mr. Sheth opened a public hearing and seeing no one wishing to speak closed the public hearing.

Mr. Sheth asked if there was any correspondence received for this application and there was none.

Dr. Goate` moved to approve Application V-06-11 Lands of the State of Delaware, 581 Public Safety Boulevard, seconded by Mr. Hufnal and the motion was unanimously carried.

Applicant #V-06-12:

119 Cherry Street, Lands of American Dream Properties: American Dream Properties of Frederica, Delaware, has applied to the City of Dover Board of Adjustment requesting a variance from the front yard requirement of the RG-1 (General Residence) Zoning District Bulk Requirements (Article 4, §4.2).

Subject property is Tax Parcel ID #ED-05-076.12-02-18.00-000. The owner of record is American Dream Properties, LLC.

Mrs. Townshend stated that the legal notice was published in the Delaware State News on July 9, 2006 and the public was notified in accordance with the regulations.

Mr. Sheth questioned whether there were any members that had a conflict of interest and there were none.

Representative: Mr. Jack Evans, 663 Brookville Drive, Dover, DE 19901.

Mr. Evans stated that his company built a house on Cherry Street and he set the house to close to the road which encroached onto the easement for the front setback. He measured to close to the road. When they first measured, they measure twenty-one (21) feet back and measured in the wrong place.

Mr. Sheth questioned if a survey had been conducted? Responding to Mr. Sheth, Mr. Evans stated that the original survey was done by Bob Nealy. He only surveyed the property, he did not survey where the house would be placed, and Mr. Evans did that on his own. The final survey was done by Mr. Nealy and he is the one that informed him that he was in fact, over the line.

Mr. Sheth further questioned if there were property stakes placed on the property where the house was to be placed? Responding to Mr. Sheth, Mr. Evans stated that yes the stakes were originally property lines, and not where the house would be placed. He did that on his own through measurements. He knows that there was some concern because there is a sewer line that runs adjacent to the property along the ditch so the City made us stay ten feet off of this sewer line and this is why we did more measurements by hand.

Colonel Ericson questioned, at what point of construction did you find out that there was an error? Responding to Colonel Ericson, Mr. Evans stated that when he had the survey done to sell the property. The house has been built and there are people living in this unit. We had the City come out and do inspections on a regular basis.

Mr. Hufnal questioned if that normally, when they build something, do you get the surveyor to put a setback stake in, if so, why did you not do it this time? Responding to Mr. Hufnal, Mr. Evans stated, yes he does; however, with the lot with the sewer line in such a manner, he was concerned about getting the house to fit inside of this area because from the sewer line over, he had to be ten (10) feet from the center of the sewer line. It took us forever to figure out where

we would place the house because of these factors. If he would have known he was inside of the lines, he would never have placed it there.

Mr. Prichard stated that Staff worked closely with the Public Works Department establishing first what were a ditch and a sewer line. There were questions from Public Works on how close a foundation could go to the top of a ditch for the slope. With regards to the sewer line, Andy Riggi checked our plans and pipe and stated that it was right at the top and they were requiring ten (10) feet of clearance from that. We had a survey that was prepared by Robert Nealy in August of 2005 and a plot plan showing that the house would be placed in compliance with the setbacks on the property. It is a tight property and typically, when the Building Inspectors go out, they are not surveyors, they do not check setbacks. There is no curbs on the street; there is only a right-of-way width so it would be hard to tell without locating the property stakes. The only thing that we could do at this point is, if there is a doubt, we would request a survey.

Dr. Goate` questioned that when the inspection takes place, anything that the Inspector notes is placed in writing and the applicant is made aware of them? Responding to Dr. Goate`, Mr. Prichard stated yes this is part of the permit package.

Mr. Sheth opened a public hearing and seeing no one wishing to speak closed the public hearing.

Mr. Sheth asked if there was any correspondence received for this application and there was none.

Colonel Ericson moved to approve Applicant #V-06-12; Lands of American Dream Properties, 119 Cherry Street due to error on the part of the City of Dover Inspector, seconded by Mr. Hufnal and the motion was unanimously carried.

Meeting Adjourned at 10:41 AM

Respectfully Submitted,

Diane Metsch
Secretary