

**CITY OF DOVER BOARD OF ADJUSTMENT  
SEPTEMBER 20, 2006**

The Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, September 20, 2006 at 10:00 AM with Mr. Sheth presiding. Members present were Mr. Sheth, Dr. Goate`, Mr. Hufnal and Mr. Senato. Colonel Ericson was absent.

Staff members present were Mrs. Townshend, Ms. Cornwell, Mr. Albert and Mr. Rodriguez. Also present was Mr. Richard Woodhall, Ms. Emily Genoese, Mr. Dan Wallace, Mr. Robert Irons and Mr. James Hutchison.

*Dr. Goate` moved to approve the agenda as submitted, seconded by Mr. Hufnal and the motion was unanimously carried.*

*Dr. Goate` moved to approve the regular minutes of July 19, 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-06-13:**

200 Saulsbury Road, Lands of the Elk Lodge: The Elk Lodge, has applied to the City of Dover Board of Adjustment requesting a variance from the maximum monument sign square footage restriction of the R-8 (One Family Residence) Permitted Signs Table (Article 5 §4.7). Specifically the applicant is requesting a variance to increase the sign from the permitted 24 square feet to 32 square feet (4' x 8').

Subject property is Tax Parcel ID # ED-05-076.07-01-820-000-000. The owner of record is Benevolent and Protective Order of Elks.

Mrs. Townshend stated that the legal notice was published in the Delaware State News on September 10, 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. Mr. Hufnal stated that he is a member of the Dover Elks Lodge and would abstain from voting.*

**Representatives:** Mr. Richard Woodhall, Representative of the Dover Elks Lodge.

Mr. Woodhall stated that he was here representing the Dover Elks Lodge. We are in our new building on Saulsbury Road and had applied for a permit to put up our sign on the front of the property. Because our property is zoned R-8, we received Conditional Use to place the building there; however, because we are zoned R-8, our sign out front can only be twenty-four (24) square feet. Originally, we thought it would be thirty-two (32) feet. He is requesting that they be able to have their sign enlarged up to a thirty-two (32) square foot sign. It would be very similar to the Blood Bank sign located across the street.

Mr. Woodhall further stated that with his submittal for permit, he included pictures of all the other signs in the area because they are the only property zoned residential with all other properties around them being zoned commercial. The reason we would like to keep the sign, which is a little smaller than the original sign we had on Route 8, is because of all the public affairs that we have. If reduced down to twenty-four (24) square feet, it could be difficult to get the information out to the public to let them know what we are doing. We could put what the affair is, phone numbers, and when the event is being held. It would actually be one of the smallest signs in the area.

Mr. Senato questioned whether this sign would be a lettered sign or would it be electronically lit? Responding to Mr. Senato, Mr. Woodhall stated that the sign would have a brick face with three lines of changeable copy and will be lit from inside.

Mrs. Townshend stated that the parcel, in addition to being zoned R-8, is adjacent to residential properties. Sign regulations also affect it because it is adjacent to open space where the building is located on the property and there would be enough room there as there are just a few houses. The location of the sign would be located to the backs of the houses and would not face them.

*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-06-13 Lands of the Elk Lodge, 200 Saulsbury Road, seconded by Mr. Senato and the motion was unanimously carried with Mr. Hufnal abstaining from vote.*

**Applicant #V-06-14:**

1169 & 1175 Walker Road, Lands of Jean Mullen and Daniel & Sharon Harvey, has applied to the City of Dover Board of Adjustment requesting a variance from the side yard setback requirement and the landscape buffer of the C-PO (Commercial/Professional Office) Zoning District Bulk Requirements (Article 3, §26.7). Applicant is also requesting a variance from the opaque barrier requirement of the supplementary regulations applying to all non-residential zones (Article 5, §7.2).

Subject property is Tax Parcel ID # ED-05-076.18-01-78.00-000. The owner of record is Jean W. Mullen and Daniel & Sharon Harvey.

Mrs. Townshend stated that the legal notice was published in the Delaware State News on September 10, 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:** None present.

*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.*

*Mr. Senato moved to table Applicant #V-06-14; Lands of Jean Mullen and Daniel & Sharon Harvey, 1169 & 1175 Walker Road due to lack of representation, seconded by Dr. Goate` and the motion was unanimously carried.*

**Applicant #V-06-15:**

22-24 The Green, Lands of Delaware State Housing Authority, has applied to the City of Dover Board of Adjustment requesting a variance from the side and rear yard setback requirements of the RG-O (General Residence) Zoning District Bulk Requirements (Article 4, §4.13).

Subject property is Tax Parcel ID # ED-05-077.09-04-49.00-000 and ED-05-077.09-04-51.00-000. The owner of record is Delaware State Housing Authority.

**Representative:** Ms. Emily Genoese, Delaware State Housing Authority.

Ms. Cornwell stated that the applicant is asking for a variance to allow for a building addition which would also help them meet their ADA accessibility requirements. Due to the location of the property which is located in the Historic District, the building is currently located on the lot line with no side yard. They would like to increase their building size towards the back of the current building which would reduce the rear yard setback.

Mrs. Townshend stated that the legal notice was published in the Delaware State News on September 10, 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.*

Ms. Genoese stated that the Delaware State Housing Authority would like to put an addition on the rear of the property located at 22 The Green which is adjacent to 24 The Green. We have done a minor lot line adjustment to combine three parcels into one. We have a very steep handicap ramp on the back of the property and we have an employee who has a very hard time using the ramp. With the addition, we would enclose the two properties of 22 and 24 The Green so that the employee would have an interior pathway for her to get to her office. We would be adding five more office spaces also with the addition.

Mr. Senato stated that there is a Ginkgo tree located in the rear yard which has a historical value located behind 22 The Green. Responding to Mr. Senato, Ms. Genoese stated that the tree is actually located behind 18 and 22 The Green's rear yard and would be adjacent to them.

Mr. Senato question if there would be any impact to this tree? Responding to Mr. Senato, Ms. Genoese stated that they would have an Arborist come and look at the tree to make sure that the root system would remain intact. The building will be located away from the Kinkgo tree.

Structurally, they will do a bond beam for a foundation so that they do not have to encroach on the drip line of the tree. We have taken the root system of the tree into consideration.

*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.*

*Mr. Senato moved to approve Application V-06-15 Lands of Delaware State Housing Authority, 22-24 the Green, seconded by Mr. Hufnal and the motion was unanimously approved.*

**Applicant V-06-16:**

1035 Forrest Avenue, Lands of Fountainview LLC, has applied to the City of Dover Board of Adjustment requesting a variance from the side and front yard setback requirements of the COZ-1 (Corridor Overlay Zone 1) Open Space and Landscaping Requirements (Article 3, §27.57).

Subject property is Tax Parcel ID # ED-05-076.07-01-30.01-000. The owner of record is Fountainview LLC.

**Representatives:** Mr. Dan Wallace, Vice President of Real Estate Development for Interstate Development Services; Mr. James Hutchison, Regional Branch Manager, Commerce Bank; and Mr. Robert Irons, Bohler Engineering.

Mr. Albert stated that the applicant is requesting a variance from the open space and landscaping requirements for the Corridor Overlay Zone, specifically, the twenty-five (25) foot landscaping rear yard setback and a five (5) foot landscape buffer. The parcel in question houses two other proposed commercial properties and the applicant wishes to use this property for commercial banking purposes.

Mrs. Townshend stated that the legal notice was published in the Delaware State News on September 10, 2006 and the public was notified in accordance with the regulations.

Mrs. Townshend stated that as noted in the Staff Report, Staff has recommended in favor of the variance on the east side; however, not in favor of the variance along the frontage.

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

Mr. Wallace stated that he would give some background information to explain the team and what they proposed to do. They are the Developing Consultant for Commerce Bank, the end user for the property which is known as the old Elks Lodge. This bank will be developed similar to the Commerce Bank located on State Street that was developed two years ago. We worked closely with Staff and City officials to take down an old gas station and develop what we feel is a beautiful facility and gateway to the community. He would like to duplicate this matter at the Forrest Avenue and Saulsbury Road site.

Mr. Wallace further stated that they have gone through some matters with Staff regarding Text Amendments and are before you today to discuss the two variances that are required because of those text changes. Commerce Bank is a large regional bank that has about 400 branches and is currently expanding in about seven states with fifty to sixty branches a year. They have a brand image and prototype that they would like to put in this location.

Mr. Irons stated that the proposal is to re-subdivide the three parcels that make up this area and construct a Walgreens on the corner parcel and the Commerce Bank. The remaining parcel for the Commerce Bank of 1.7 acres would include the central portion of the property for the Commerce Bank with four drive-thru's to the west of the property with dedicated parking of thirty-seven (37) parking spaces to the east of the building and along the front of the building. It is important that they have the parking located in the front of the building because they are approximate to their main entrance. Unlike some of their competitors who do have a drive-up ATM, their ATM is located within the lobby and anyone wishing to use it would have to park in front of the bank and come in to use the ATM, similar to what you would see in any convenience store. Commerce Bank has made their name as a convenience bank and to that end, the parking spaces in front of the building are very important. We do have areas for supplemental parking in the future that are outlined in other areas if in fact they would be necessary; however, based on other sites, we feel that the thirty-seven (37) dedicated parking spaces is sufficient.

Mr. Irons further stated with regards to the drive isles and in working with the proposed Walgreens on the corner, there is an access point along Forrest Avenue that would provide a safe haven for patrons for both sites as they would come onto our site. The drive isle to the rear has been approved as well as the drive isle located between the two properties of Walgreens and Commerce Bank. We have to make this site work in concert with the Walgreens site which would include approval from DeIDOT for interior circulation.

Mr. Irons further stated that with the approval of the Text Amendment and a review of the Ordinance, we meet all of the other requirements of the Ordinance. If you take a look at the site as it is currently construed, there is a lot of existing non-conforming. With the addition of landscaping and other items we have tried to bring this into conformity further. There are two variances that still remain in order to construct the property and receive approval through the Land Development Ordinance beyond the Zoning Ordinance which would be Section 27.57b and Section 25.57c.

Mr. Irons further stated that 27.57b requires a twenty-five (25) foot landscaped area along the frontage of their property running along Forrest Avenue for the southern end of the property. We only have 22.3 feet so we are 2.7 feet short of meeting the twenty-five (25) foot landscaping requirement along the frontage. The other variance is for 25.57c which requires a five foot landscape buffer between properties and in some areas we have green area where we have zero feet as a result of the circulation drive that runs between the two properties. As a result of the approval that has already been granted to the Walgreens site, the access runs through to service both properties and possibly in the future, the site to the north. To provide the five foot landscape buffer would provide an adverse situation for us to be able to provide the parking and driveway circulation based on the layout. It is a logistical semantics in that we cannot provide

the five foot landscape buffer because there is a drive isle that runs between the two properties that provides both properties with access.

Mr. Irons further stated that with regards to the twenty-five (25) feet landscape requirement, similarly we are working in concert with the existing approval of the Walgreens site and the drive isles that have been approved. What we have tried to do with regards to the layout in order to meet our parking requirements, setbacks, and minimum green areas, we have laid out the drive isles across from one another for circulation from one site to the other with four-way intersections which is the safest approach. As a result of planning for the drive isle along the front between the two proposed buildings it would necessity a variance of 2.7 feet of green area that is not being required. We do exceed the minimum parking area, landscaping, and open space green area overall on the site. Landscaping is planned along the green area and will be in concert with Walgreens and the knee wall aesthetically along the front to match that of Walgreens.

Dr. Goate` questioned if the bank intended to put someone's name on this location? Responding to Dr. Goate`, Mr. Wallace stated that no, it would just carry the Commerce Bank logo.

Mr. Hutchison stated that he would like to share information regarding Commerce Bank as they are little different then other banks. First and foremost, we are open seven days a week. At our current location, last month, we did 62,000 transactions in a single month and we have only been in business for a year and a half. We have five hundred business accounts with a total of twenty (20) employees. Ninety (90) percent of our employees are part-time and are all college students with every college in Delaware represented. One of the greatest concerns that he has is with regards to security. When he looks at the doors and the layout from a security perspective, it offers security concerns that we may have for our employees and customer base. There is not a day that goes by where someone does not come in and compliment the current building and its beautiful location. He can assure you that wherever they go with the four hundred different stores that we have located in seven different states, the model is always the same. We are committed to being a beautiful addition to communities in which we come.

Mr. Senato stated that there are sixteen (16) spaces in the immediate front of the south end when dealing with the variance request of 2.7 feet. What impact would that have if you are limited and the variance were not to be approved? Responding to Mr. Senato, Mr. Irons stated that on a majority of the work that has been done on other stores, we would like to have in the neighborhood of thirty plus parking spaces with a majority approximate to the front of the building. Because Commerce Bank runs itself like a commercial entity, even more so then a bank would, they need to have the parking located at the front portion of the building so that when people come in, there is an open parking spot to park and they would not have to circulate around to find one. From an operational perspective, if you took away sixteen (16) parking spaces yes, we would still have ten; however, with the amount of transactions that Mr. Hutchison referred to that would be anticipated for this building for this operation, he does not feel that it would be enough.

Dr. Goate` questioned if all movement of traffic would be behind both Walgreens and the bank? Responding to Dr. Goate`, Mr. Irons stated that there is an allowance for movement behind

Walgreens and the bank; however, we anticipate that most of our traffic will come in off of Forrest Avenue.

Mr. Senato stated that you mentioned in your presentation that the north and the south would be lined up as far as ingress and egress on your diagram. In the event that you would have to make a change, you would have to push the building back which would then infringe on the north section of the property line. Responding to Mr. Senato, Mr. Irons stated that it would not only infringe and we do have the green area to make it work, the problem is we are not allowed to move ninety (90) feet so we would then have to come forward with another variance request.

Mr. Hufnal stated that in conjunction with what Mr. Senato proposed, it would not line up with your access between Walgreens and Commerce Bank and also, the buildings would not be in alignment with each other as they would be at the current time. By granting these two variances, everything would have continuity with where the driveways would intersect and with where the buildings would align.

Mrs. Townshend stated that Mr. Senato questioned if it would require losing parking if it did not get the variance. As she reads it on the plan, it appears that across the front, you have a twenty-eight (28) foot wide drive isle and code only requires twenty (20) feet. Responding to Mrs. Townshend, Mr. Irons stated that from a traffic perspective on the Banks property, we want to maintain a minimum of twenty-four to twenty-five feet especially when you have perpendicular parking. If you want to institute traffic engineering to have perpendicular parking on each side of the drive isle for proper circulation, you need to have a minimum of twenty-four feet and this is why the twenty (20) feet would not work. From the twenty-eight (28) foot perspective, unfortunately, the balance of the twenty-eight (28) feet is closer to the building so if you struck a line across the front and withheld the twenty-five (25) feet, you would create a jog. We would like to have the parking lines line up with one another.

Dr. Goate` questioned if Mr. Irons was asked to summarize exactly what the rational for this request is in a brief way, what would you say? Responding to Dr. Goate`, Mr. Irons stated that we need to work in concert with the previously approved use relative to the access points in keeping with the safe cross intersections and four way intersections. Beyond that, he feels that it is important for the operations of this Bank, at this location, to have the amount of parking approximate to the front of the building from an operation perspective.

Mr. Hutchison stated that currently, with the day to day operations at the existing store regarding parking, he does not have enough parking. There is not a single day that you can ride by this store that every single spot is not parked in. Parking is essential and they need every single space that they can possibly get as parking is very critical for this type of operation.

*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.*

*Mr. Senato moved to approve Application V-06-16 Lands of Fountainview, LLC, 1035 Forrest Avenue for the 2.7 feet variance request, seconded by Mr. Hufnal and the motion was unanimously carried.*

*Mr. Senato moved to approve Application V-06-16 Lands of Fountainview, LLC, 1035 Forrest Avenue for the five (5) foot landscape buffer, seconded by Mr. Hufnal and the motion was unanimously carried.*

*Dr. Goate` moved to adjourn the meeting at 10:54, seconded by Mr. Hufnal and the motion was unanimously carried.*

**Meeting Adjourned at 10:54 AM**

Respectfully Submitted,

Diane Metsch  
Secretary