

**CITY OF DOVER
BOARD OF ADJUSTMENT
SPECIAL MEETING
March 11, 2009**

A Special Meeting of the City of Dover Board of Adjustment was held on Wednesday, March 11, 2009 at 9:00 AM with Chairman Sheth presiding. Members present were, Mr. Sheth, Colonel Ericson, (Arrived at 9:10 AM), Mr. Senato, Mr. Hufnal and Dr. Goate'.

Staff members present were Mrs. Townshend, Mr. Albert, Ms. Cornwell, and Mr. Rodriguez. Also present was Mr. Mark Dunkle, Mr. Gary Williams, and Mrs. Kathleen McDaniel. Also speaking from the public was Mrs. Judy Diogo and Mr. Dan Wolfensberger.

NOTE: These minutes were prepared using the "Action Minutes" format.

APPROVAL OF AGENDA

Mr. Senato moved to approve the agenda as submitted, seconded by Mr. Hufnal and the motion was unanimously carried.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF JANUARY 22, 2009

Dr. Goate' moved to approve the regular Board of Adjustment meeting minutes of January 22, 2009 as submitted, seconded by Mr. Senato and the motion was unanimously carried.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

NEW BUSINESS

Applicant #V-09-02:

1284 MCD Drive, Lands of William H. McDaniel, Kathleen McDaniel has requested a variance from the requirements of Article 5, §11.13 of the *Zoning Ordinance* pertaining to the placement or building of structures within twenty-five feet of a floodplain.

Subject property is zoned IPM (Industrial Park/Manufacturing Zone) and the Tax Parcel ID # is ED05-077.12-01-13.00-000. The owner of record is William H McDaniel, Inc.

Representatives: Mr. Mark Dunkle, Parkowski, Guerke & Swayze; Mr. Gary Williams, Representing Coastal Brewing Company; and Mrs. Kathleen McDaniel.

Mr. Albert presented the application.

Mrs. Townshend stated that the legal notice was published in the Delaware State Newspaper on March 1, 2009 and the public was notified in accordance with the regulations.

Mr. Sheth questioned if any member of the Board had a conflict of interest and there was none.

Mr. Dunkle presented his case.

Mr. Williams explained why the building needs to undergo expansion.

Mr. Sheth questioned what the economic impact would be with this expansion? Responding to Mr. Sheth, Mr. Williams stated that currently they only employ six (6) full time employees and two (2) part time employees. With the initial phase, they would go from six (6) employees to sixteen (16) to include a Production Manager who is currently not at this location. Our main headquarters are currently located in Annapolis, MD and he travels between Dover, Ashburn, and Annapolis. Once this construction is completed, he will move into Dover. The second phase of expansion would include thirty-two (32) to thirty-four (34) total employees. All the bottles of beer will state brewed and bottled in Dover, Delaware.

Mr. Sheth questioned whether FEMA supersedes the City of Dover regulations? Responding to Mr. Sheth, Mr. Dunkle stated that it all works together. Under the City of Dover Code you can build in a flood plain. The FEMA map was changed to the current line and we do not agree with the current line which is being addressed with FEMA; however, it is a very long process. Under City Code it states that you have to be twenty-five (25) feet from that line or fifty (50) feet from the stream. It does not state that you cannot build in it it just states that this is the distance that they need to be from the line. We shot for the most minimal adjustment that we could propose which is also a City standard. The building needs to expand exactly like the footprint shown in order to keep the equipment in the assembly line and for the entire process to work. Under tab two what they are presenting is a more conservative compromise where the setback is much greater than the fifty (50) foot width in which we keyed it to the old FEMA flood map floodplain line so there is consistency.

Mr. Dunkle further stated that there is no upstream or downstream flooding problem or drainage problem from doing this. What the developer is going to do is what is called over management. In this case, they will clean out an existing swale in the flood plain area. This is enough to ensure that there is zero upstream or downstream effect. Even if this was not done, the effect would be negligible; however, to be conservative they would do this over management part.

Dr. Goate' questioned the decision by this company to recommend certain things to your firm, is this something that they have a lot of practice with that; have been working with it or is this something completely new for what they are advising? Responding to Dr. Goate', Mr. Dunkle stated that with regards to the Hydrological Report, they are a long standing geotechnical firm that provides opinions throughout the state. Duffield has a contract with DNREC to do geotechnical mapping and is certainly not the first time that they have given opinions of this nature.

Mr. Senato questioned with regards to a statement earlier about filling in an area could you expand on that? Responding to Mr. Senato, Mr. Dunkle stated that where the pink lines are on the map, what they would do is excavate to make a swale that would not even be a ditch but a depression and this little bit of excavation would mathematically offset whatever extra drainage flow might be caused. The engineer feels that it may already be there; however, overgrown.

Mr. Senato further stated that it was mentioned that there is a 50,000 barrel capacity for this plant. Would there be any other impact going over that production? Responding to Mr. Senato, Mr. Dunkle stated that they have the capacity for 80,000 barrels with this expansion.

Mrs. Kathy McDaniel questioned if there were any questions from the Board members regarding the Hydrological Report?

Mr. Hufnal stated that with regards to the management of the stormwater with the cleaning of the swale, this apparently will be taken care of. In the comments of the report, they stated that they plan to over management; would this solve the problem of any future impact on the flood plain? Responding to Mr. Hufnal, Mrs. McDaniel stated that the impact is negligible per the report and this is an extra insurance that they would clean out the current existing swale to solve any possible issues.

Mr. Sheth opened a public hearing.

Mrs. Judy Diogo – Representing Central Delaware Chamber of Commerce - Stated that she is here to speak in favor of the variance. We are asking that you approve their request. Coastal Brewing Company has been in the Dover area for eight (8) years and currently employs six (6) full time employees and two (2) part time employees. They have had a good track record with the City and with the community. We are excited to have a company look at the State of Delaware who has facilities in other areas and they have decided to come to Dover and centralize their operation. We would like this variance to be successful so that we can encourage other business to do the like. In their conversations with Gary Williams, CEO of Coastal Brewing Company he explained to them that Phase I of construction would be a financial commitment of \$250,000 and would be increasing their employee base from six (6) full time to sixteen (16) and they would continue to use the two (2) part time employees. During Phase II they are looking at expanding another 15,000 square feet which would make their investment over \$500,000 for the second phase. The number of increased employees may not be big; however, it is the small businesses that carry Central Delaware to a large extent.

Mrs. Diogo further stated that Coastal Brewing Company mainly focuses on the Maryland, Delaware, and Washington, DC market and with this expansion they would be able to focus on the entire eastern seaboard. Getting Dover, Delaware out there would help our economic development activities and efforts.

Mr. Dan Wolfensberger – Representing the Kent Economic Development Organization – Stated that they were involved eight (8) years ago in the tracking and assisting Fordham Brewery in locating in Dover, Delaware and we are in full support of their expansion plans.

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

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

Mr. Hufnal moved to approve Applicant #V-09-02: 1284 MCD Drive, Lands of William H. McDaniel, Kathleen McDaniel in accordance with Staff's recommendations of approval of the

variance and also information that was documented in the Geotechnical Report stating that “granting of the variance and allowing the proposed construction would have no downstream or upstream floodplain impact” particularly with their planned over management of the stormwater on the site, seconded by Mr. Senato and the motion was unanimously carried.

Mr. Hufnal moved to adjourn the meeting, seconded by Mr. Senato and the motion was unanimously carried.

Meeting adjourned at 9:32 AM

Sincerely,

Diane Metsch
Secretary