CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
October 15, 2025

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, October 15, 2025, at 9:05 A.M. in person in the City Council Chambers and using the phone/videoconferencing system Webex. Members present were Mr. Swalm, Mr. Coburn, Ms. Brinkley, Mr. Wagner and Mr. Senato (virtually).

Staff members present were City Solicitor Mr. Daniel Griffith, Mrs. Melson-Williams, Mrs. Savage-Purnell, and Mrs. Duca.

SELECTION OF ACTING CHAIR FOR the MEETING
Ms. Brinkley moved for approval to select Mr. Coburn as the Acting Chair for this meeting. The motion was seconded by Mr. Swalm and unanimously carried 5-0.

APPROVAL OF AGENDA
Mr. Swalm moved for approval of the agenda. The motion was seconded by Mr. Wagner and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF AUGUST 20, 2025
Mr. Wagner moved for approval of the meeting minutes of August 20, 2025. The motion was seconded by Mr. Swalm and unanimously carried 5-0.

APPROVAL OF THE TRAINING SESSION MEETING MINUTES OF SEPTEMBER 17, 2025
The meeting minutes of September 17, 2025, are still being prepared. They will be considered for approval at the next meeting.

Acting Chairman Coburn mentioned that the next Board of Adjustment Meeting is Wednesday, November 19, 2025, at 09:00A.M.

Acting Chairman Coburn asked if there were any questions; there were none.

Status Update: Preparation of DRAFT Rules and Procedure
Mrs. Melson-Williams mentioned that as part of your Training Session back in September you were provided a Draft copy of a Rules of Procedure document to formally put in writing how you function at a meeting such as this to resolve some of those questions of tie votes, chairmanship and the like. Staff are continuing to review that as should you. At this point, I just wanted to keep it in front of you, and we will bring that back to you with some edits in the future. I know the City Solicitor took notes in this discussion you had in September. If Mr. Griffith has any other formal comments about the updates to establish the Rules of Procedure for this Board, we can go to him now.

City Solicitor Griffith mentioned that the only update he would have is that we discussed during

the Workshop one or two proposed edits. What was presented to the Board at the September 17, 2025, meeting was an initial DRAFT and intended as an editing process. We are starting the edits, and we would invite comments from any Board members and Staff. Once we get all those comments together, we can formalize and vote on the adoption of the Rules. Right now, as Dawn mentioned, we are in the editing process. All members have a copy of the DRAFT.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams mentioned that I don't believe we have any other items for you. Your next filing deadline is later this week. So, upon receipt of any new applications, the next Board of Adjustment Meeting is Wednesday, November 19, 2025, at 09:00A.M. We will keep you posted on that.

SPECIAL RECOGNITION

Resolution honoring the service of Mr. Kishor C. Sheth to the Board of Adjustment. Staff read the Resolution into the record. (Attached)

Mr. Wagner made a motion to adopt the Resolution honoring the service of Mr. Kishor C. Sheth. The motion was seconded by Mr. Swalm and unanimously carried 5-0.

Mr. Kishor C. Sheth said thanks to all of you. He mentioned that he enjoyed serving for 33 years and is wishing good luck as all of you continue the same job. Thank you. Acting Chair Coburn said thank you Mr. Sheth for your service.

Mrs. Melson-Williams asked if any other members have any comments; we can certainly take those now. She also mentioned his 33 years of service.

Mr. Senato mentioned that he served with KC for many years and he's been an inspiration for me. When I first came on, he taught me a lot. It was really a pleasure working with him and I wish him all the best. Thank you.

Mrs. Melson-Williams mentioned I think I would echo that for the Staff. Over the years KC has worked through multiple Directors and multiple Staff members that have provided support to the Board of Adjustment. We won't talk about the 33 years because I was still in college when he started.

OLD BUSINESS

Mrs. Melson-Williams mentioned for the record that there were no items of Old Business.

NEW BUSINESS

Mrs. Melson-Williams read the Procedure Statement for New Business.

Mrs. Melson-Williams noted that the legal notice for this Application was published in the Daily State News on October 3, 2025, and the property owners within 200 feet of the subject site were notified by letter sent by the Planning Office in accordance with the procedures for public notice of a variance application. The meeting agenda was posted on October 15, 2025, in accordance with the Freedom of Information Act requirements.

NEW BUSINESS

Mrs. Melson-Williams gave a brief overview of the Application V-25-05 referencing the Staff Review Report and Recommendations.

Mrs. Melson-Williams stated that the Presentation as noted and the Review Report of the Variance Request were previously provided to the Board and consists of a narrative and a list of Exhibits A through F that was attached. Exhibit A is the application materials as the Board of Adjustment Application Form and a Zoning Map Exhibit item which is Exhibit B was provided by Planning Staff. Exhibit C is the Applicant's written narrative. Exhibits D and E are the Site Plan as provided in two different sizes (depending on how well your eyes work) and then Exhibit F which is a series of architectural graphics that show information about the request and the building in particular. This application was advertised by the City's Planning Office in the local newspaper on October 3, 2025, and the mailing was completed on that same date. The applicant is going to be presenting a Presentation. They also provided that to us in hard copy; so, we will enter that as Exhibit G into the record.

Acting Chairman Coburn asked if there were any conflicts of interest. There was none.

Application #V-25-05
Property at 640 South State Street for the Bayhealth Medical Center – Kent Campus. A Request has been made for two Variances from the requirements of *Zoning Ordinance,* Article 4 §4.15 as associated with a proposed 10-story Hospital Bed Tower Building Addition. Variance Request #1 seeks to increase the allowable height from 150 feet to 175 feet for a new 10-story Hospital Bed Tower. Variance Request #2 seeks a reduction of the minimum 10-foot front yard setback to allow for building encroachment of the Bed Tower Elevators and Stairs were adjacent to South Street. The property is zoned IO (Institutional and Office Zone) and partially subject to the SWPOZ (Source Water Protection Overlay Zone). The owner of record is Bayhealth Medical Center, Inc. Property Addresses: 640 South State Street and 625 South Governors Avenue, Dover DE. The Tax Parcel ID is ED-05-077.13-01-52.00-000.

Representative(s): Mr. Michael Metzing, Bayhealth Medical Center; Mr. Gregory Moore, Engineer with the Becker Morgan Group

Mr. Michael Metzing was sworn in by City Solicitor Mr. Griffith.

Presentation
Mr. Metzing said thank you for this opportunity to tell you a little bit about our project and the why's and underlying items. My name is Michael Metzing, and I serve as the Vice President of Facilities and Support Services at Bayhealth. I have been with Bayhealth for about 21 years now and have overseen most of their projects from Milford up through Dover. This is an opportunity to tell you about our plans for the Bayhealth Kent Campus Expansion. Bayhealth’s mission is to strengthen the health and community one life at a time. Ours is a safety responsibility. We help bring people into this world and we are there when people leave this world and we are there to bring comfort to their family. We're also there to plan events that require care and we do that every day. We are here for all of those things. And it should be no surprise to any of you that Delaware's population is growing quickly and a large cohort of that is the senior population. We

are trying to prepare for that as we come before you today. This means more patients to care for and those patients are sicker. Over the last two decades that I've been with Bayhealth, we have reinvested hundreds of millions of dollars in our facilities, both hospital and outpatients, to keep pace with changes and how care is delivered. But now we find ourselves at a crossroads. We currently need to add 64 beds immediately and an additional 32 beds by 2033. That's how large the community has grown, and that's how the needs of the community have come to us. That's even with us investing significantly in outpatient facilities and the move to render care considerably on an outpatient basis. What that has resulted in is more and more patients coming to us sicker because now they can't be taken care of with an outpatient basis. What does that mean? That means they spend more time with us and usually don't have the level of care and need intermediate care or intensive care. And we need to evolve to be able to meet those needs. We also need to modernize our facilities as more than 50% of our facilities are 45 years old or older. They were built in different standards and with different expectations. The slab-to-slab heights are such that modern utilities systems just do not fit in them. We can't move it on there; we can't provide the other required standards that are established in hospital codes. This would normally mean that we would renovate our existing buildings, but we just can't. We can't reimagine it through renovation. We need another answer. We believe that answer is to go upward. That answer was brought over almost 20 years ago when we established our first project on that campus and started the four-story building.

Hospitals are critical infrastructure to the community. They are built within natural disasters and to operate during times of outside utility services failure. We never close and we are open to serving people when the community needs us most. As such, we are different from every other building type in the I/O Zoning and we have to be because of what is required of us because of how we function. Also, its what's required of the building fire and specialty codes that we're subject to. The example of those unique requirements is that hospitals are built to be defended in place should a fire or smoke condition occur within our walls. Because hospitals have patients that cannot preserve themselves. That is they cannot move themselves from an area in an emergency because we did the treatment they received or because of their condition. Hospitals are built in a manner to provide horizontal smoke and fire compartments. We move somebody from an area that's on fire to an area that's not on fire safely and also be able to move them very quickly. They are also built in a manner that requires us to have additional elevators and additional stair towers so that we move them horizontally should the fire continue. Last but not least, we have to be build in a manner to provide safe methods for our first respondents should they have to respond to help us. These systems occupy ceilings, mechanical rooms, and penthouses, and play a key role in ensuring they continue with a safe environment for our patients and those that care for them regardless of what is going on around them. These are large systems with redundant pathways that require space, significant space. Its space that you will not find in other commercial facilities and that is because hospitals are different; they need to be the human beings they are today. Strictly one of our former boards members and former chair reminds us often that it's not a question of if, but a question of when you or a family member or a loved one's going to need the services of the local hospital and you want your hospital to be the best they can be. And today we're coming to you to ask that you consider our application. Bayhealth's been serving this community since 1927 in the same location on State Street. Over the years we've worked tirelessly to bring the best care to the patients and our patients in Dover. To continue that legacy, we need to rebuild our hospital, Dover’s hospital. We are committed to

our mission. We're committed to Dover and the citizens. With that Gregg Moore will share the rest of the presentation.

Mr. Gregory Moore was sworn in by City Solicitor Mr. Griffith.

Presentation Continued:
Mr. Moore stated that he was proud to be here as a human being that was actually born in that hospital many years ago, I will leave out what year, but I am approaching being a senior citizen. So, this is an image of the building that we are proposing. That building was actually in this very chamber before the Planning Commission in 2006. I was here. Dawn was here and we did get approval to build a ten-story tower in the exact location that we're proposing now and as part of this application. We built four stories of that in our first phase in 2010 and that is the 2010 Pavilion. You can see that there in the dark (as he referred to the slide). All the lighter areas (as he referred to on the slide) are the older facilities, which I will call hospital sprawl that happened over many years. That is what Mike referred to as buildings that are 50 years and older. There's only one there, which is the building of 1986 that is going to remain as part of functional hospital and hospital beds as part of our proposed Master Plan. You can see in the center of all that, the old building that was commissioned in 1927 believe when the first patient came in and that building is embedded inside of all of that expansion around it as Dover and our community grew. But the problem is those parts of the building must remain in service because we have many functions there that we do every day and we can't take them out of service. But they don't meet current standards, they do not meet current Codes, and we cannot functionally renovate them to meet those standards or Codes. We'll go through that. This is a graphic showing inside the hospital. You can see it is positioned between Governors Avenue and South State Street. The blue is the main entrance and that main entrance is the new entrance that was built in 2010. And then behind it, you can see the pavilion; that's what we call the bottom of the ten-story tower where the beds will be and the actual individual rooms and the six-story tower on them. The key to this slide is that we have two other locations where people have to go for beds. That is a little bit difficult for our patients to find. One of those elevators (in green) is the oldest and is almost 425 feet from the main entrance. I know I've heard from my mother who was 89 years old and she tells me, Gregg, I can't walk 425 feet to find an elevator and then go up and walk through. It is becoming a problem with wayfinding and confusion. Not only does it affect our community and our patients, but it also affects our Staff because they have to be everywhere that makes us less efficient. So, the strategy of going vertical, one elevator up makes it simpler. Staff understands that it is efficient, and the community understands it. So, this is the same graphic, just a little bit of a different presentation, and this is what we call our Phase I. Our Phase I will be to build the ten-story tower, which means adding six stories on top of the four that we've already built. We also need significant improvements to our emergency department. We are having problems because we do not have enough beds. Mike mentioned that we need close to one hundred new beds to meet the demands. The problem that we are having now is we are getting people in our emergency department, and we are seeing more people in our emergency department, which is a nationwide issue. More people are coming in for instant care because of all kinds of issues in our community. We take them in and if they get stuck in the emergency department, they get stuck there because we don't have a bed for them to go to. We have to wait for a bed to clear, and that causes a backup; so we're trying to correct that issue. You may have been there, and you may have seen some of those delays. That's a huge issue for us. In the light blue is the tower and that

is a very, very small version of beds around the outside. Those are individual beds per room. Now we have a series of rooms that have two beds in them, and that's not modern healthcare. HIPAA (Health Insurance Portability and Accountability Act) and other regulations are more attuned to one person in the room so that your doctor can talk to you and that information isn't transferred to any other people. And it's a much better way to care for the hospital. The yellow piece at the far right is what we call the elevator tower and the stair that Mike referred to, and the blue is the same bed tower on the fourth floor all the way up to the tenth floor. The entrance off South State Street and the entrance off Governors Avenue, all those things won't change; we will do the same thing. Everything to the left is white is what we call the legacy buildings that are 40-50 years and even older than that.

Next is the engineering documents in your packet that we submitted with the two variances. On the left is the height variance, and on the right is the building restriction line projection. And if you blow it up a little bit further, you can see as we focus is the tower itself. In red is the tower and that little sliver of red along South State Street is the area that we are proposing that we need to project into the building restriction line, and it is about 3 feet at the bottom side of the shape. This is request number one; excuse me, we have two. If we go to the next slide, we are going address both of them. I want to make sure that you understand exactly where they are located and what they're doing before we make the request. The height variance is 150 to175 feet. The current Code states 150 as Dawn told you, and we need to be at 175. The ten-story tower was approved in 2006, and we were going to be ten stories, and we were going be 150 feet. We had not finished that; we built four stories. I do want to point out that the 150 does not include what we call the penthouse equipment on top of the roof. If we could build more than 20% of the roof area on top of this pavilion, we would not have to seek this request. It's not that we need more than ten stories; we are meeting the Code. It is that we have so much equipment on the building that makes our penthouse wider than the Code allows. Four of the ten stories are already constructed, and if you go to the next slide, you will see a building that is ten stories. This is actually a hotel. Notice that the total height of this building is 120. Almost all other buildings can be built at ten stories at a 150 feet with exception of a hospital and that is the clear space that we are going to go through. This building is actually being built at 120 feet. It has average floor height of 12 feet. Our averages are greater than 15 feet. So, at greater than 15 feet, ten stories, automatically you are over 150. We have the issue, which is why we are here.

This is actually a section looking from South State Street. You can see the hospital entrance that was built in 2010 on the existing podium. We call it that because the sixth bed tower floors are going to come above it. And that is what you see in white. And that's the purpose of today's conversation and request. Notice at the far-right side, you can see the clear spaces from floor to floor. All of them are 15 feet and four of them are 17 feet and two are 18 feet. And we'll talk about that and why that is. And that is really the reason why we are here. But what I want you to get from this slide is on the very top, you see the 18 feet which is the penthouse. That penthouse, we are going to cover up completely with our building to make it look better. We are actually going to cover our equipment which is heating, ventilation and air conditioning, air exchanges, etc. It will cover a large amount of our roof that we are going to cover with screening so that it looks like a building. And it will be more aesthetic, and you saw that on our first slide.

This is a section through a room. Notice on the right, the tenth floor is 18 feet tall, but look what's above it. There's almost 10 feet of structure. And then there is almost 5 feet of mechanical space to allow gases, heating, ventilation and air exchanges. All of these things that are more demanding in the hospital and require extra space. And that's why we're here today. Our structure needs to be stronger; we need to be able to withstand every kind of condition that we're going to get. And we can't have vibrations in our hospital. We have to be stable, and that's different than most buildings. If you're in a hotel, sometimes you can hear things on the sides, below, and above you. Here we cannot have that. We have to have a better structure and deeper. On the left is our typical room at 15 feet. There are Codes that actually require us to be in that realm; so, it's not just our request, it is actually Code driven. Many of our floors are 15 feet. So, the fact that we have more than four stories that are 17 to 18 feet is the reason we are here today. Next slide. This is the section from South State Street. You can see the bed tower above the podium in the top, right above the 17-foot section on the 5th floor, and then you can see the pipes coming down from the very top, which is the mezzanine and that mezzanine is 18 feet. So, all of that gets us to the 175. Just another section showing the actual room, very similar to the section that I showed you earlier.

Variance request number two is the exit stair and the elevator that is going to be projected out on the side of the building next to South State Street. It is about 3 feet at its minimum and about 8 feet at its maximum. It covers about 400 square feet. So, it's not that much of a projection, but it is essential to this building. It is essential because of the ingress and egress and fire and other conditions in case we have to evacuate the building, But it’s mostly for our fire protection folks who are going to have to go in and get out of the building. The yellow shows that exact structure that is only for two purposes: the elevator and the stairs. It is going to be located at the other end of the building; the current stairs are located over by the main entrance on the far left of that building. And it is basically developing the existing bridge which already projects into the building restriction line. And as a result of that, we think that will make it easy to understand and it's not a big impact. Notice on the top those three red dots and the gray. That is the equipment on top of the roof that will provide all the heat, ventilating, and gas materials and exchanges, and it all will go down. Part of that is why we have to have so much structure and part of that is air exchange and infectious disease removal, etc. Next slide, this is a photograph from the Governors Avenue side of the existing bridge. We got approval of that bridge to project into the building restriction line back in 2006 and that structure there is actually supporting it. Our elevator and stair addition will run right into that and basically go straight up ten stories (the four stories that are currently there and the six stories that are not there yet). So visually, it's not a huge impact because this is already there. From South State Street, it’s the same. We will not go to the sidewalk. There will be a gap between the sidewalk and this structure. It will look very usual to be able to see continuously down; we will not visually change the sidewalk at all. But that bridge is actually there, and it provides a connection to what we call our central utilities building over on the other property. This is where we bring materials to the hospital. Those materials come across the bridge, and we need this elevator to get those materials up vertically into the hundreds of new rooms officially and safer.

On this slide is the variance criteria; and Dawn referenced that as the information was included in your packet. There are four distinct criteria that we must demonstrate to you, so that we can request the variance. And hopefully we've done that. We'll go through each one individually. The

first one is the nature of the zone. Dawn was very good in her Report as she always is of it being very clear that the I/O Zoning allows us to do this. We've been there since 1927. The community is aware. The hospital is in a great spot with the two gateways coming into the City. Everybody knows where we are. We've operated for a long time, and we've been a good neighbor to our neighbors. It's a very appropriate zone for a hospital because of all those things.

The next criteria is the character of the immediate vicinity. We're going look at a graphic here that's not in your packet. You can see in the center of this graphic, the Bayhealth insignia that's the old building, and the tower is shown graphically just as all the other slides are, the ten-story tower, and all of the blue Bayhealth with the insignia is property that Bayhealth owns in support of the facility itself. And those properties across from Governors Avenue are C-3 commercial. They've been there for decades. We have been coexisting with those commercial properties for decades. They're very aware of what we're doing. They're aware that we have proposal for ten stories, as is Holy Cross on the I/O zone to the opposite side of South State Street. And there is also an RGO Zone which is yellow there with that logo and there is a doctor's office there. Certainly, that doctor's office wants to be near the hospital because it is very effective for their care and they can then get in and out of the hospital easily. So, we don't believe there's a big impact because of our length of stay and the nature of the users that surround us.

Item three is similar, if we remove this projection and go above 150, what impact are we going to have on our neighbors and will we affect them? If you go to the next slide, we don't think we will. This is the exact same slide. You can see our tower, which is where these variances are. It's in the center of our largest piece of property and the surrounds are almost all Bayhealth and support services for the hospital, parking, buildings, offices, etc. The closest building, which would be the C-3 commercial, is about 325 feet or almost a block from our tower projection above the 150 feet and the elevator stair that we are asking for. So, we believe that we are very compatible with our neighbors and that this has a minimal impact on them. Partly because we have been there so long and partly because it's already been approved. They know it and partly because of power the tower positioning.

Item four is actually the legal standard of "Exceptional Practical Difficulty" and we have many. I'll go through them.Without the variance, we continue with wayfinding issues, distance problems, spread out multiple areas of bed care and different bed care. That is bad because the rooms in the old part of the hospital are different than the new rooms. They're not as modern. They don't have some of the code requirements, and we can't upgrade them. Mike told you that. The big reason that we are here is equipment. We have lots of equipment. We have lots of mechanical. We have to have a complete dual backup system, and we have heavy equipment, not only on the roof for the heating ventilation but inside the hospital, whether it's robotic equipment, whether it's imaging equipment or anything. We have a greater demand for a structure which pushes our height up.

We talked about the wayfinding challenges in terms of getting around the hospital. This will make it easier. Our community will be better served. The additional stairwell is essential for emergencies and there's nothing more important than handling an emergency to the hospital because that is where the people who need care the most and cannot move and cannot get around. We need to be able to get them out and that stairwell and that elevator tower allows that to happen more quickly for emergency evacuation. So, Mike talked about the Codes. This

building has Codes that address everything inside of it from vertical height. Notice the first one is new. Many of these Codes have been updated and require us to be higher since 2006. When COVID came earlier this decade, believe it or not, five years ago, the Codes were changed because of infectious disease. Everybody had masks. So, we now have to exchange air in and out of our facility at a higher rate so that is less of an issue inside the hospital because you're more susceptible to viruses when you're around other folks who are sick. So that requires us to put in more equipment, more air exchanges, more pipes requiring those structures above the rooms and below the rooms to be deeper. We have issues with the Energy Code; we have to have heat exchange. For Building codes in terms of structure, we have a 3-hour rating condition between floors. Most buildings are 2 hours. That 3-hour requires that structure to be deeper so that fire cannot penetrate up or down through those areas. Elevator and stair are for safety and Fire Codes; we talked about that. The big one here is the FGI regulations only to hospitals. They have just recently increased in 2021 the height required inside of a hospital room, and that is because of the patient lift that you see on the ceiling above the bed has had to move up because people were hitting some of that with their heads if they were tall. The COVID then said move that up, which is why our 15 foot is essential to us. And every single room has that mechanism in it just in case the patient needs to be moved. Lastly, there are the penthouse regulations. The City of Dover allows a penthouse on any building, but it only allows it to be 20% of the roof. And if it's more than 20% of the roof, it is considered part of the height, which is why we have our 175 feet request. We have to involve almost the entire roof because of all the demands of these Codes and air exchanges, etc. And in 2021, the City moved into 20-foot for the other projections of the building that would be above the roof like elevators. That limits the space that we can use for heating them. So, my point is, is that after 2006, there's been many code changes that have made height more of an issue to us that weren't there in 2006, and we think that's an Exceptional Practical Difficulty for us.

So it’s maximizing our vertical for beds efficiency, we talked about that. If we can't do that, that is an Exceptional Practical Difficulty not only to the hospital but its workers but also to our community. And we think it's essential for modern health care, and you see that in most places. You see that in Milford. The Milford facility was built to that standard, and it operates much more efficiently. We are trying to match that here in Dover. Staying in operation all the time, that's essential. We cannot be out of service for any function. As a result of that, it's an Exceptional Practical Difficulty where we can build this tower. And since we have already built the podium, we need to be able to maximize the building above it. You may not know this, but the fourth floor that is below that proposed 6-story tower is what we call shell space. We designed it, we built it, and we left the shell so that we could go up six stories. That way we don't bother anybody on the first three stories. We will not take those first three floors out of the commission. We cannot do that. But that middle floor allows us to build on top of it and if we cannot do that, we have to go somewhere else and it completely changes our care.

I talked about the podium already being there. We had graphics showing that if you have any questions about that one, once I conclude you can certainly ask any questions. We cannot do it elsewhere. We do not want multiple towers. We want one tower for ease of use, and we think it's an Exceptional Practical Difficulty if we would have to do it elsewhere and keep it below the 150 feet. As I have mentioned, Dawn will confirm that the City does allow ability to be above 150 for mechanical equipment on top of the roof, that is permitted and normal. It's not counted in the

150, but Dawn would be the person that would make sure that you build all that equipment properly when you put it in the 20%. We already know we cannot do that. As a result, 18 feet of our request is to allow our equipment to be more than 20%. It is Exceptional Practical Difficulty because we must have that equipment by Code. With that I will turn it over for any questions. This is the exact same image that you saw below. The glass band is the building that is there and you are looking at the entrance which will remain. We want to maximize that, so people understand what the entrance of the facility is and continue using our hospital as they started before we finish this tower. So, with that I will answer any questions.

Acting Chairman Coburn asked the Board if they had any questions.

Are there any questions from the Board of Adjustment members?

Mr. Senato was curious regarding the property on South State Street where the lab is located. He wanted to know if it would be staying there or going around. What are you doing with that?

Mr. Moore asked what do you mean when you say on South State Street?

Mr. Senato mentioned where the entrance is located, the lower entrance on the ground across from the parking lot between South State Street and Governors Avenue where people go in that area there. Is there still going to be an entrance on the ground level or is that going to be eliminated and that area is going to be moved?

Mr. Moore stated that the parking will stay as is. The Emergency Department will stay on the Governors Avenue side and the entrance to the facility will stay as it is. We are, as part of this Application actually making improvements and heightening the levels of the Emergency Department for the reasons I said because we are slow there and we need to improve. We are doing a Master Plan and we are going to be back before the City. We're not done with that yet. We know that Phase I is essential to get us started. Our Master Plan will be presented to the City Staff probably December or January. We're working on that as we speak, but we are certain that our ten stories have to be able to be achieved which is why we're here now before we present the Master Plan. You may have seen some visions of that in the paper. And at the time we made this submission, we had not completed our work enough to actually include it here. And in addition to that, we have many properties and we wanted to focus on the ten stories so that it was very clear what we were asking for in this request. On Monday, I will appear before the Planning Commission for a Rezoning. I did not point out the one RGO piece of property which does allow for doctor and medical offices. We are going to request that for the I/O Zone so that our entire property is all zoned the same. That is pending as well.

Mr. Senato said thank you sir.

Acting Chairman Coburn asked the Board if they had any additional questions.

Mr. John Pardee, Attorney with the law firm of Brockstedt Mandalas Federico, LLC, here in Dover, Delaware and Counsel for the hospital. I just wanted to make for the record a brief statement about the legal standard, and you've heard Mr. Moore say “Exceptional Practical Difficulty.” That is in fact the standard; I'm sure this Board is familiar with that. It was first

defined by the Delaware Supreme Court in 1978 in a case called Board of Adjustment of Newcastle County versus Kwik-Check Realty. The Delaware Supreme Court says that the "Exceptional Practical Difficulty" is present where the harm to the applicant is if the variance is denied will be greater than the probable effect on neighboring properties if the variance is granted. So, it is literally a balancing test. You look at what is the harm to the applicant if you deny the request of the variance which Mr. Moore did a nice job of explaining that it would be pretty severe here. The hospital would not be able to deliver the quality of care that it needs to for its community. So it's really an "Exceptional Practical Difficulty," not just for the hospital, but for the future healthcare needs of the community. Versus on the other side, what is the probable effect to neighboring properties if you grant the variances.

Mr. Moore also made a nice record of the fact that impact will be minimal if any, because we own most of the properties around the proposed tower. And the businesses on Governors Avenue and the church across South State Street has coexisted with the hospital for decades and it's my understanding that they have no objection and are actually supported. As Mr. Moore outlined, this ten-story tower was originally proposed and approved back in 2006, so it's not a secret that this was coming. In that event, the point is simply we need to satisfy the legal standard, and we thank you for your consideration.

Acting Chairman Coburn opened the public hearing.

Acting Chairman Coburn asked if there was anyone who would like to speak against the Variance Application. There was none.

Mrs. Melson-Williams noted that there were no other attendees that have joined us virtually for the meeting. I am not seeing anyone in the audience raise their hand to speak against the application.

Acting Chairman Coburn asked if there was anyone in the audience or online who would like to speak in favor of the Variance Application.

Mr. Zach Prebula, Director of Operations at Kent Economic Business Partnership, was sworn in by City Solicitor Mr. Griffith.

We are the Economic Development Organization for Kent County. So, we focus on business attraction but also supporting businesses through their expansion progress as well. This is a great example of a local company looking to do just that and expand their health care service to support the needs of a growing population in Kent County. This here is a great demonstration of one of our largest employers looking to support this community and confirm their commitment to this area by increasing new services. And for those reasons, we ask you to please approve these variances. Thank you.

Mrs. Melson-Williams stated that there are no other participants online or members of the public wishing to participate in today's public hearing and I'm not seeing any other members of the public raise their hands.

Acting Chairman Coburn asked if there was any additional correspondence received for this Application? Mrs. Melson-Williams noted that there was no written correspondence received regarding this application.

Acting Chairman Coburn closed the public hearing after seeing no one else wishing to speak.

Acting Chairman Coburn asked the Board if they had any questions. There was none.

Mr. Senato made a motion for Variance Request #1, Variance Application V-25-05 be granted to increase the allowable height from 150 feet to 175 feet for a new 10-story hospital bed tower. And Variance Request #2 for a reduction of the minimum 10-foot front yard setback to allow for building encroachment of the Bed Tower Elevators and Stairs adjacent to South State Street. There will be hardship if these two requests were not permitted due to the extent of the hospital and what they do for the community. The motion was seconded by Mr. Swalm.

Acting Chairman Coburn asked the Board if they had any additional questions. There was none.

Roll Call Vote

- Mr. Wagner – yes, one of the things that concerned me was fire safety/patients. I have to compliment both Staff and Bayhealth for addressing those fully.
- Mr. Swalm – yes, my reasons are that the nature of the zone in which the property lies is consistent. The characteristics are also consistent in the immediate vicinity. It's all health care. And I also do believe if the restriction weren't removed, it would prevent and be an Exceptional Practical Difficulty to the hospital in providing the health care that they need to provide for the region.
- Ms. Brinkley – yes, to approve variance request number one and number two, because Bayhealth has been a long-standing organization in our community. They've been around for a long time with the safety and health of our community. I believe that it would be a wonderful addition and we've already started it, so let's complete this wonderful project.
- Mr. Senato – yes, I made the motion to approve because the presenter definitely based on the information shown and heard that there would definitely be a hardship with and it would not allow the expansion of the programs or the height for the tower. And we definitely know that they do a great service and following the Board of Adjustment Code Section 2.11 and I believe 2.12, they definitely proved a hardship.
- Mr. Coburn - yes, I vote for the approved variances. Without the variances it would create a hardship for the hospital and they would not be able to do the expansion and the expansion will definitely serve the community.

There are five members in favor of the motion, and no one opposed to approve the Variances is successful. Vote 5-0.

Public Comments Opportunity

Mrs. Melson-Williams stated that there were no additional members of the public that have joined us online or any members of the public wishing to speak.

Mr. Senato apologized for technical difficulties at the beginning of the meeting. He thanked everyone for their patience.

Mr. Swalm made a motion to adjourn the meeting. It was seconded by Mr. Wagner and unanimously carried 5-0.

The meeting was adjourned at 10:16 A.M.

Sincerely,
Maretta Savage-Purnell/km
Secretary/Acting Secretary

Resolution

Whereas, Mr. Kishor "KC" Sheth *became an appointed member of the City of Dover Board of Adjustment on July 27, 1992 and has served with diligence and distinction in this capacity to ensure that the spirit of the City's Zoning Ordinance is observed and substantial justice is done; and,*

Whereas, Mr. Kishor "KC" Sheth *has played a role in ensuring fundamental fairness and careful forethought in the interpretation of the Zoning Ordinance to ensure undue hardship and exceptional practical difficulties are mitigated by the granting of variances through his service on the Board of Adjustment; and,*

Whereas, Mr. Kishor "KC" Sheth *in reviewing and deliberating on variance applications considered a property's zoning classification, character of the area, effects on neighboring properties and uses, and the creation of exceptional practical difficulties for property owners seeking to make normal improvements to their properties; and,*

Whereas, Mr. Kishor "KC" Sheth *served as the Chairman of the Board of Adjustment leading each meeting's proceedings in the consideration of applications and sharing his knowledge of previous applications acted upon; and,*

Whereas, Mr. Kishor "KC" Sheth *completed his term of service on the City of Dover Board of Adjustment in August 2025.*

Now Therefore Be It Resolved That, the City of Dover Board of Adjustment does hereby express its sincere appreciation to ***Mr. Kishor "KC" Sheth*** *for his faithful and diligent service to the Citizens of the City of Dover as an active member of the City of Dover Board of Adjustment and extends it best wishes to* ***Mr. Kishor "KC" Sheth*** *in future endeavors.*

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Richard Senato
Board of Adjustment Vice-Chair

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Sharon Duca
Assistant City Manager