

**ARCHITECTURAL REVIEW REPORT**

Referral by City Planner to Historic District Commission
Meeting of January 18, 2024

<u>Permit:</u>	Fence Permit #23-1868
<u>Location:</u>	146 S. State Street, Dover Located on the west side of South State Street to the north of (but not adjacent to) West Loockerman Street
<u>Tax Parcel:</u>	ED-05-077.09-02-58.00-000
<u>File Number:</u>	HI-24-01
<u>Present Zoning:</u>	C-2 (Central Commercial Zone) H (Historic District Zone)

Referral of Permit:

The following application Fence Permit #23-1868 for 146 S. State Street is referred by the City Planner to the Historic District Commission for consultation regarding the issuance of the Architectural Review Certificate for a Fence project. Applications for certain types of construction activity within the Historic District Zone (H) are reviewed by the City Planner (or Staff as designated) for Architectural Review Certification as part of the Building Permit application review process. Staff is referring the Permit for review under the provisions of *Zoning Ordinance*, Article 10 Section 3.22(A) and (B). See below.

Section 3.22 Architectural review certification by the city planner.

- (A) An architectural review certificate for specific classes of building permits, including Fences, signs, siding, window and door replacement, roofing, the addition or replacement of decorative features, minor demolition, residential additions, and other construction of a minor nature, may be issued by the city planner, after a review and determination that the proposed construction is in general accordance with the standards set forth in subsection 3.25.
- (B) The city planner may refer any permit application for demolition or construction in the historic district for consultation with commission.

Permit Information:

Fence Permit #23-1868 was filed on December 13, 2023 for a Fence project at 146 S. State Street in Dover, Delaware. The Project outlined in the Permit submission involves placement of a six-foot vinyl Fence (Fence # 1) to the rear of the building between the parking lot and the building spanning from north to south. There is an additional Fence segment (Fence #2) that goes from the building north to the adjacent property and connects to an existing six-foot vinyl Fence at 140 S. State Street.

It is noted that the six-foot vinyl Fences at 146 S. State Street have already been installed and was done so without a Building Permit. This work without a Permit is the subject of Code Enforcement case # 23-3983. The case was opened August 15, 2023. The Fence Permit as noted was not filed until December 2023.

The project site is located within the local Historic District Zone (H) and subject to the provisions of the *Zoning Ordinance*, Article 3 §21 and referenced sections. This building is also located within the boundaries of a National Register Historic District, specifically the Victorian Dover Historic District.

Staff Review of Permit for Architectural Review Certification:

Project activities are reviewed for compliance with the *Zoning Ordinance* and the *Design Standards and Guidelines for the City of Dover Historic District Zone* as stated in *Zoning Ordinance*, Article 10 Section 3.25(A).

Article 10 Section 3.25 Architectural review standards.

(A) An architectural review certificate may be issued if it is found that the architectural style, general design, height, bulk and setbacks, arrangement, location and materials and structures affecting the exterior appearance are generally in harmony with neighboring structures and complementary to the traditional architectural standards of the historic district as set forth in the historic district design guidelines and standards adopted by the planning commission and as set forth in the United States Secretary of the Interior's Standards for Rehabilitation.

The current location of the side Fence segment (Fence #2) is in the “public view”; and it is deemed visible from the public way of the adjacent street. Public view is defined in the *Zoning Ordinance* as “that which can be seen readily from a public street, public building or public property, excluding views from alley rights-of-way.”

A majority of the longer Fence (at the edge of the parking lot) is blocked from view from South State Street by the mass of the building. The rear alley (South State Street Alley) is not considered to be a “public view” point.

In reviewing the proposed project for Architectural Review Certification, Staff referenced various sections of Chapter 3: Maintenance, Repair, Preservation and Restoration of Existing Historic Buildings of the *Design Standards and Guidelines for the City of Dover Historic District Zone* which presents the Recommended, Not Recommended, and Inappropriate approaches to construction of various elements in the Historic District.

This Request should be reviewed for conformity with the design criteria and development guidelines found in the *Design Standards and Guidelines for the City of Dover Historic District Zone*. Specifically, Chapter 3 page 3-26 includes the discussion of Fences in the Historic District zone where it states that site Fences and walls “should not exceed 4’0” in height and then discusses the Recommended, Not Recommended, and Inappropriate practices associated with Fences and walls as related to materials. Chapter 3 presents the information on the appropriate Fence materials for use in the Historic District. Wood picket style Fences and cast iron (metal) fencing are Recommended.

Staff also looked at the provisions for Fences in the *Zoning Ordinance*. The *Zoning Ordinance* limits the height of Fences to four (4) feet within the front yard setback (Article 5 §1.55) with other provisions for increases Fence height to 6.5 feet for side yards, rear yards, and the second front yard on corner lots.

Historic District Commission Action

The Historic District Commission should consider the Fence project and take action in regard to the Architectural Review Certification for the Fence Permit #23-1868. The Historic District Commission may add conditions for the Fences (Fence #1 and Fence #2) in order to comply with the character of the property within the Historic District.

Staff Findings from Review of Building Permit:

Staff findings and recommendations are summarized as follows for the Fence project as presented in Permit #23-1868 and accompanying documents.

1. Fence Location: The Fence #1 is located in the middle of the property at the rear of the building. There are 2 pedestrian gates on this portion of Fence which runs north south. The north side of the property has Fence # 2 that runs parallel to State Street between the building and the north property line, connecting to a Fence to the north on an adjacent property. It is noted that there is a decorative wrought iron Fence at the front façade of the building running adjacent to the street sidewalk. This Fence remains and spans between 146 and 140 South State Street.
2. Fence Visibility: The side Fence segment (Fence #2) is visible from the South State Street right of way. If this section of Fence were to be removed, the rear Fence (Fence #1) portion would then also be visible.
3. Fence Height – 6 ft. along a side property line: The *Design Standards and Guidelines* say that generally the height of a Fence should not exceed 4 feet. The 6-foot Fence exceeds the recommended height of the *Design Standards and Guidelines*. Staff review of previous permits did find a Fence Permit (Permit #03-831) in 2003 for a 42” high Fence. This was to determine if this new Fence replaced a previously existing Fence. There was no diagram or specifications of material for the Fence in the file. The description as described is “48 L.F. of fencing (42” high) at curb in parking lot, next to building”. The 2012 Google Street view shows what looks to be a wood picket Fence that matches description from the 2003 Fence Permit. This earlier wood fence appears to have been removed as 2019 Google Street view does not show a Fence in the locations that are present today.
4. Fence Material: The Fences are of white vinyl as a solid panel between posts system. The use of vinyl products is typically not recommended for use in the Historic District; however, there are examples that have been approved for Fences with conditions for use of wood products, materials with a wood grained appearance (non-shiny), or other composite materials in a neutral color (tan/clay).

5. Current Condition & Location: The Fences (Fence 1 and Fence 2) applied for in the Permit exist today. A Permit was applied for after a Code Enforcement Case was opened 8/15/23 for No Valid Permit.
6. Adjacent Fence at 140 South State Street: Planning Staff looked for information on the adjacent Fences. The only survey on file at the City of Dover offices for either adjacent property is from 1985 for 140 S. State Street. The survey shows a six-foot Fence inside the property line for an enclosure for the restaurant. However, the 2019 Google Street view shows a four-foot Fence approximately on the property line. Current conditions show renovations to the rear patio area including what appears to be 6-foot vinyl fencing as the enclosure.

Recommendations:

- *Fence #1*-Staff finds that Fence #1 location generally has limited visibility from the public way of South State Street due to the building and other fencing. The 6-foot height is unfortunately used to create a privacy Fence with limited visibility between parking lot and the building it serves. Given the location of the Fence, an allowance for it to remain could be granted.
- *Fence #2*-Staff finds that this Fence is visible from South State Street and connect to an adjoining Fence blocking the through view to the alley. Even at this distance, the actual material is difficult to determine from the street. Consideration could be given to reduce this Fence to a height of 4-feet. A recommendation would be to add landscaping (shrub planting) on the South State Street face of the fence to screen the vinyl material usage (and taller height).

Advisory Comments:

1. The applicant shall be aware that issuance of a Fence Permit is required prior to the commencement of construction. The Fence Permit Application will be subject to the conditions of approval established and may be required to be updated, if necessary, to comply with these conditions established through the Architectural Review Certification process.

Attachments:

- Letter of Referral Notice to Applicant dated January 8, 2024.
- Building Permit #23-1868 Application Form and Permit submission documents
- Map: Actual locations of Fence #1 and Fence #2.
- *Design Standards and Guidelines for the City of Dover Historic District Zone*, Chapter 3, page 3-26 to 3-27.
- Pictures taken January 4, 2024.
- Screen shots Google Streetview.
- Code Enforcement Case #23-3983.

City of



Dover

January 9, 2024

State Street 146 Properties LLC
Zach Foust
33 S. State St
Dover, DE 19901

Bright Side Roofing
Brian Duerr

Via email: Brian30286@yahoo.com

Re: Referral of Fence Permit #23-1868 to Historic District Commission, HI-24-01
Fence at 146 S. State Street, Dover, DE

Dear Mr. Foust and Mr. Duerr,

This letter is to inform you that Fence Permit Application # 23-1868 has been referred to the City of Dover Historic District Commission for consultation. Fence Permit #23-1868 was filed on December 15, 2023 for a fence project at 146 S. State Street in Dover, Delaware. The project outlined in the Permit submission involves 6-foot vinyl fence to the rear of the property spanning from the fence at the northern adjacent property along the parking lot to the south side adjacent property fence with 2 pedestrian gates. Additionally, there is a 6-foot vinyl fence segment between the northern adjacent property fence and the building with a pedestrian gate.

This permit was filed after the fence was constructed; it is the subject of Code Enforcement Case #23-3983: for work without a permit.

The location of the subject property within the City of Dover's Historic District zone requires the review and issuance of an Architectural Review Certificate (ARC) for construction and demolition activities. Fences are eligible for Staff review of the ARC during the Building Permit application process. Project activities are reviewed for compliance with the *Zoning Ordinance* and the *Design Standards and Guidelines for the City of Dover Historic District Zone* as stated in *Zoning Ordinance*, Article 10 Section 3.25(A).

3.25 Architectural review standards.

(A) An architectural review certificate may be issued if it is found that the architectural style, general design, height, bulk and setbacks, arrangement, location and materials and structures affecting the exterior appearance are generally in harmony with neighboring structures and complementary to the traditional architectural standards of the historic district as set forth in the historic district design guidelines and standards adopted by the planning commission and as set forth in the United States Secretary of the Interior's Standards for Rehabilitation.

In reviewing the proposed project for Architectural Review Certification, Staff referenced the Chapter 3: Maintenance, Repair, Preservation and Restoration of Existing Historic Buildings of the *Design Standards and Guidelines* which present the *Recommended*, *Not Recommended*, and *Inappropriate* approaches to activities in the Historic District. The *Design Standards and Guidelines* limit the height of fences to four feet and specifies appropriate materials for fencing. This project involves the placement of a six-foot fence which exceeds the recommended height in the Historic District. In addition, the fence was constructed of vinyl material. Therefore, I am referring the Fence Permit application to the Historic District Commission for consultation. See *Zoning Ordinance*, Article 10 Section 3.22 (A) and (B) listed below.

Section 3.22 Architectural review certification by the city planner.

(A) An architectural review certificate for specific classes of building permits, including fences, signs, siding, window and door replacement, roofing, the addition or replacement of decorative features, minor demolition, residential additions, and other construction of a minor nature, may be issued by the city planner, after a review and determination that the proposed construction is in general accordance with the standards set forth in subsection 3.25

(B) The city planner may refer any permit application for demolition or construction in the historic district for consultation with commission.

The City of Dover Historic District Commission will review this Permit at their next meeting scheduled for Thursday, January 18 at 3:30pm. Options for participating in the Meeting include attending In-Person at the City Hall Conference Room and or attending the Virtual Meeting presentation using WebEx, an audio and video conferencing system. A separate meeting invitation to Join the Meeting virtually will be sent by email to the applicants; where you can click "Join Meeting" to attend that afternoon. This Permit Referral has been assigned Application #HI-24-01. You are encouraged to participate in this meeting to discuss the project. Staff will provide the Historic District Commission with the permit application materials and other background information for their review and action.

Also attached to this Letter are the *Design Standards and Guidelines for the City of Dover Historic District Zone* pertaining to Fencing (pages 3-26 and 3-27). If you have questions or wish to discuss alternative options, please contact the Planning Office at (302)736-7196.

Sincerely,
Department of Planning and Inspections

A handwritten signature in black ink, reading "Dawn Melson-Williams". The signature is fluid and cursive, with the first name "Dawn" being the most prominent.

Dawn Melson-Williams, AICP
Principal Planner

CC: Fence Permit #23-1868
HI-24-01
Code Enforcement Case#23-3983



City of Dover - BUILDING PERMIT APPLICATION
15 Loockerman Plaza ♦ Dover, Delaware 19901 ♦ (302) 736-7010 ♦ FAX (302) 736-4217
permitsandlicenses@dover.de.us

Project Address/Tax Parcel Identification Number **E005-001.09-02-58.00**

1416 South State Street **RECEIVED**

Applicant's Name

Brian Over / Bright Side

DEC 15 2023

Owner Name and Address **2929 Forest**

E-mail address:

Contractor Name and Address

Bright Side Roofing

E-mail address: **BrightSideRoofing.com**

BUILDING DETAILS

Proposed Occupancy

fence

Type of Construction

Change in Occupancy or Use? Yes ☐ NO ☒

If yes, describe the previous use

Number of Stories

Total Height in Feet

Total Land Area to be Disturbed (in SF)

Proposed Occupant Load

Square Footage All Floors

Total Work Area (in SF)

Sprinkler System? Yes or No

Fire Alarm System? Yes or No

Dover Business License #

Phone # **(302) 682-0259**

Phone # **CITY OF DOVER**
PLANNING & INSPECTIONS

Type of work: () New () Addition () Demolition

() Renovation - Interior Exterior

() Roof - tear off overlay # of layers

() Alteration () Siding () Solar panels

() Full Building Demolition () Selective Demolition

() Fence - Height **6** () Pool () Elevator () Shed

() OTHER

Description of Work:

fence in Back

65' x 4' of fencing

Estimated Value of Construction:

1800.

Before You Dig! Call Miss Utility 1-800-282-8555 or other authorized locator.

Attention! Please post your issued permit on site and visible from the street.

Office Use Only

Permit Number **23-1808**

Roll Plans Fold Plans CD/Email

Date Received **12/13/23**

Date Issued

Flood Plain **Y** Taxes **Y** N

Public Works **Y** N KCD **X** N

Impact Fee Fixtures Sheet **Y** N

C/O Required

Review Approvals

() Building Plan

() Fire Plan

() Zoning / Site Plan

Total Fee **33.00**

Fees Paid ()

Check # Cash Credit

Collected By

Certification in Lieu of Oath

I hereby certify that I am the owner of record or a contractor authorized by the owner of record to make this application, and that all work will be performed in accordance with the applicable Codes and Ordinances.

73

Signature

Brian Over

Print Name

12-13-2023
Date

Brief Description of Work (To Be Completed by Applicant):

fence in Back Yard

To Be Completed By Planning & Inspections Staff

Building Permit #:

Plumbing Permit #:

G/O Required: Y/N

23-18608

WORK SITE LOCATION

Address: 146 South State Street

Parcel ID:

Applicant (Owner or Contractor)

Bright Side Roofing

Contact Person

Brian Duerr

Mailing Address

615 Otis drive

City, State, Zip

Dover DE

Telephone

302-682-0259

Fax

E-mail Address

Brian30286@yahoo.com

Does Your Project Propose . . .

Yes

No

If Yes, Describe

an increase or decrease to the quantity of plumbing fixtures at the location?

✓

a change in size of the water line serving the location?

✓

a new water irrigation system?

✓

a change in size of the sanitary sewer line serving the location?

✓

relocation of the water meter?

✓

relocation of the water line serving the location or any associated appurtenances?

✓

relocation of the sanitary sewer line serving the location or any associated appurtenances?

✓

any work within the right-of-way?

✓

any proposed sidewalk work?

✓

any proposed concrete work?

✓

any alteration to any storm drain infrastructure?

✓

any proposed curb alteration, i.e., new driveway to property?

✓

any proposed scaffolding to renovate building exterior?

✓

any proposed tree or shrub plantings within the right-of-way?

✓

an upgrade in sanitation service?

✓

a relocation of the existing trash pick-up location?

✓

EASEMENT*

Yes

No

Is there any existing easement on this property? (utility, drainage, cross access, etc.)

✓

*-It is prohibited to build any structure within an existing easement.

I hereby certify that the information provided above is correct and acknowledge that should any differences be identified throughout the course of the project that all renovation project requirements still apply.

Brian Duerr

Printed Name of Applicant

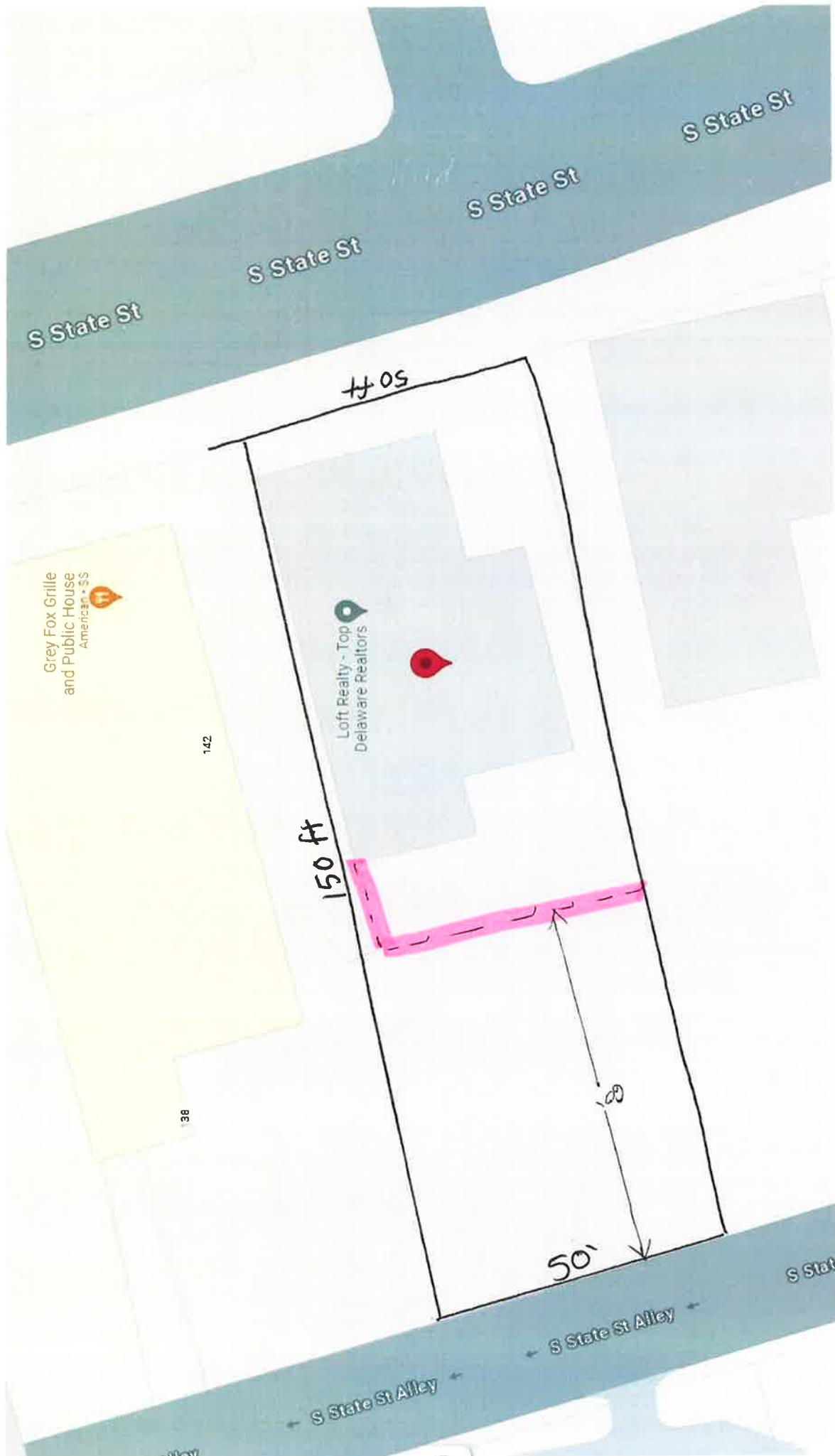
B. Duerr

Signature of Applicant

12-13-2023

Date

THIS FORM MUST BE COMPLETED AND TURNED IN WITH PLUMBING PERMIT APPLICATION OR BUILDING PERMIT APPLICATION.





speculative. As a rule the design of formal gardens should be as simple as possible, concentrating on location and groupings of planting material. In the absence of strong historic evidence, the introduction of paved garden walks, beds raised with retaining walls, and garden structures such as gazebos, pergolas, and arbors are not recommended.

- Continuous foundation planting is inappropriate for all architectural styles in Dover, except those of the Colonial Revival and Bungalow styles.

Preservation Recommendations

- Provide adequate drainage away from structures on the site.
- Do not permit plant material to destroy architectural fabric. Ground cover and vines that have grown on masonry walls may be accelerating the deterioration of the masonry. (See discussion of "espalier" technique, above.)

Fencing and Walls

Generally, site fences and walls in the Dover Historic District zone should not exceed 4'-0" in height. The following design guidelines should be considered in permit applications in which fencing and walls would be affected.

Recommended

- Wood picket fences of a wide range of designs are appropriate in the Dover Historic District zone.

- Cast iron fencing is appropriate for new fences. Existing cast iron fencing should be repaired or replaced in-kind. New cast iron fencing should be of relatively simple design; a typical earlier design was three horizontal bars with intermittent supporting posts and decorative pickets, with ornamentation at corners, gates, and picket tops.
- Wire fencing is inexpensive and easy to install. This fencing material is appropriate for more modest residences. It should be used as a plant support at property borders, and not left unadorned.

Not Recommended

- Chain link fencing is unattractive and suggestive of exclusion and confinement, and is not recommended for use in the Dover Historic District zone. Where it exists, it may be successfully planted out by encouraging vines to trail across and through it. Where a new installation is proposed it should be limited to side and rear yards. At side yards, chain link fence should not be placed forward of the front of the house. At corner properties, chain link fence should not be installed along either street frontage.
- Woven wood fencing and opaque wood fencing and any modern or "fancy" style fence is not recommended.
- Unpainted wood fences, whether made of treated lumber or not, are not recommended.

Inappropriate

- Concrete walls are inappropriate as a fencing material in the Dover Historic District zone and should be prohibited. Existing concrete walls should be stuccoed and painted, while "decorative" masonry screens should be painted black-green.

Paving and Bordering

The paving along or within the perimeter of a property provides the connection between the front door and the street. Providing the "carpet" to the door, it should be as graceful as the rest of the yard.

Recommended

- Brick, gravel, and compressed earth paths are appropriate for domestic walks and garden paths.
- Brick paving should be dry-laid in one of several patterns.



Brick Paving Patterns

- Concrete walks are acceptable in the Dover Historic District zone.
- Glazed brick borders are appropriate for planting bed borders in Victorian style gardens.

Not Recommended

- "Over-paving" to create formal gardens is not recommended in the Dover Historic District zone.
- Using concrete to replace brick, flagstone or other historic paving materials is not recommended.

Inappropriate

- Concrete block, painted rocks, and low wire fencing are inappropriate border materials in the Dover Historic District zone.

Parking Lots

Parking lots are the awkward by-product of a mobile culture. Their incorporation into historic districts is problematic. Parking lots should be screened from the street, their layout should include borders, and islands planted with trees and shrubs to break-up expanses of paved areas. Given any parking lot within the Dover Historic District zone, at least 20% of the area within it should be unpaved and planted.

Inside fence #1. Taken January 4, 2024.



From the alley facing east. Taken January 4, 2024.



From the alley. Taken January 4, 2024.



Inside fence #1 facing north. Taken January 4, 2024.



From South State Street showing the south side of the house at 146 S. State Street. Taken January 4, 2024.



From South State Street on the north side of 146 S. State Street looking towards the rear of the property showing fence #2. Taken January 4, 2024.



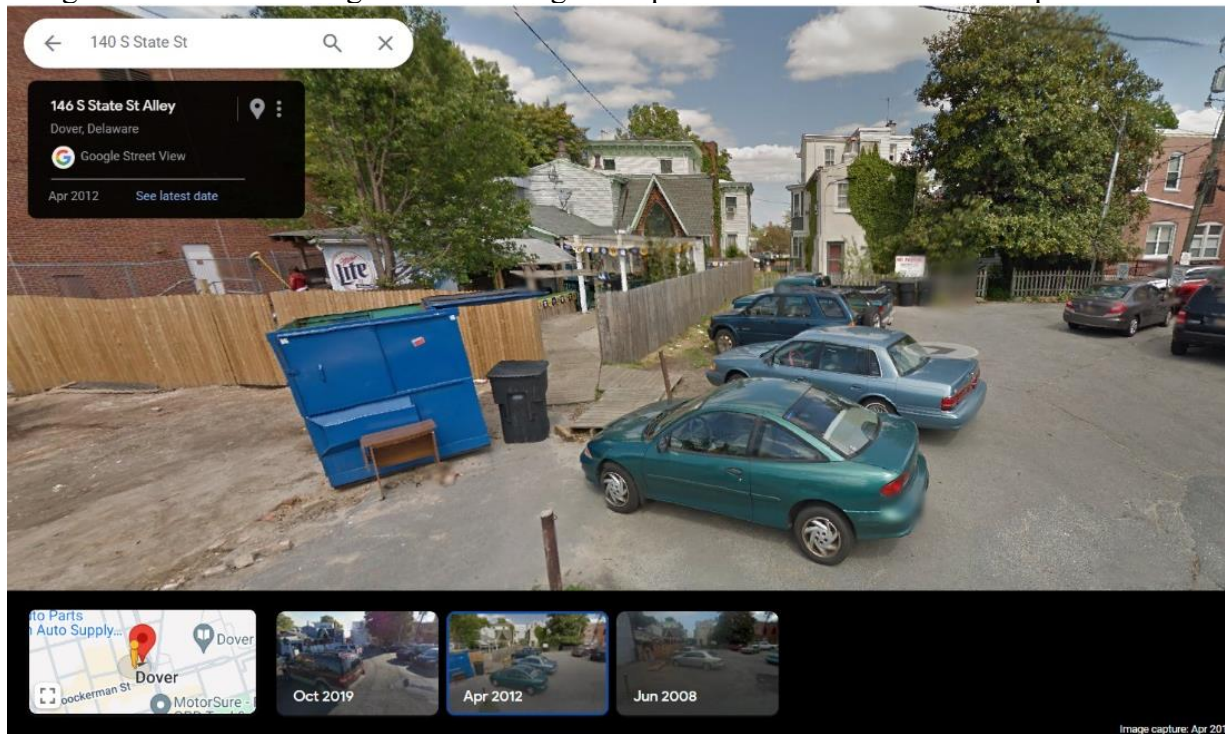
From South State Street looking towards the rear of the property between 146 & 140 S. State Street showing fence #2. Taken January 4, 2024.



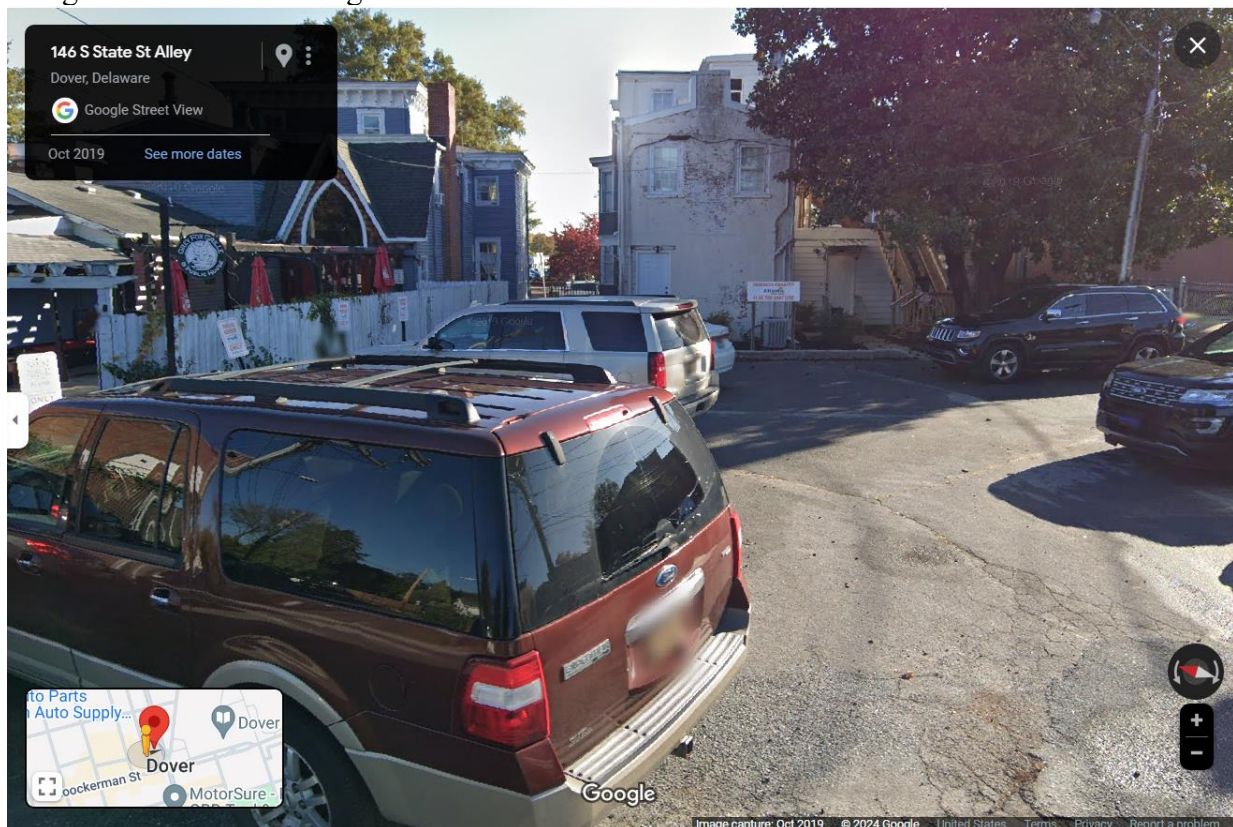
Showing second pedestrian gate on fence #1 from the parking lot. Taken January 4, 2024.



Google Streetview showing fence matching description from Permit #03-831. April 2012.



Google Streetview showing Oct 2019.



Property Information

Address: 146 S STATE ST
DOVER, DE 199017314
Location ID: 4436
Tax Map Number: ED-05-077.09-02-580.000-000
DPS from Location Master: 10302500
Zoning: C-2 CENTRAL COMMERCIAL
Subdivision:

Case General Information

Case status: AC ACTIVE
Status date: 8/15/2023
Case type: NVP NO VALID PERMIT
Reported date: 8/15/2023
Origination: CC CITIZEN COMPLAINT
Default inspector: UGE John England
Credit balance: .00

Owner Information

Owner name: STATE STREET 146 PROP LLC
Address: 33 S STATE ST
City: DOVER, DE 19901
Phone: 0
Notice: Y
Flip:

Violations

Type	Status	Location	Quantity	Date Established	Date Resolved
778 BUILDING PERMIT REQUIRED	AC	FENCE	1	8/15/2023	

Case Data

Description Data
FIRST SUMMONS NUMBER
SECOND SUMMONS NUMBER
THIRD SUMMONS NUMBER
FOURTH SUMMONS NUMBER
FIFTH SUMMONS NUMBER
TIME OF INSPECTION

Active Inspections

Type	Insp ID	Schedule Date
INSPECTION - ADDITIONAL	UGE	1/19/2024