

City of



Dover

July 25, 2023

John A. Sergovic, Jr.
Sergovic Carmean Weidman McCartney & Owens, P.A.
25 Chestnut Street
P.O. Box 751
Georgetown, DE 19947

RE: BOA application regarding Site Development Plan S-23-06 College Road
Apartments at Railroad Avenue/Grove Street

Dear Mr. Sergovic:

Thank you for your application to the Board of Adjustment (BOA) regarding an appeal to the Dover City Planning Commission's June 20, 2023 decision approving Site Development Plan S-23-06 College Road Apartments at Railroad Avenue/Grove Street.

However, per Appendix B, Article 9, Section 2.2 *Appeal of administrative order, requirement, decision, or determination*

(https://library.municode.com/de/dover/codes/code_of_ordinances?nodeId=PTIICOOR_APXBZO_ART9BOAD_S2PODU) of the City of Dover Code regarding appeals to the Board of Adjustment, the Board of Adjustment shall:

"...have the authority to hear and decide appeals where it is alleged there is any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance. Appeals to the board may be made by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of an administrative officer."

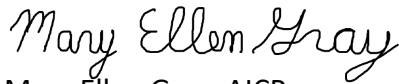
Accordingly, the BOA does not have the authority to review decisions made by the Planning Commission given that members of the Planning Commission are not considered administrative officials and that the BOA can only hear appeals to actions regarding the enforcement of the zoning ordinance. Therefore, the Department of Planning, Inspections and Community Development has concluded the BOA does not have jurisdiction and we are prepared to administratively reject this appeal. It is the Department's position that our rejection of the appeal satisfies your client's obligation to exhaust administrative remedies before requesting a state court's review of the Planning Commission's decision.

However, if your position is that an administrative rejection of the appeal is insufficient to exhaust administrative remedies, we can process this application to have the BOA determine if it has jurisdiction to hear and decide the appeal. If you wish to proceed then the hearing date for this application is September 20, 2023.

Please confirm within 10 days of this correspondence if an administrative rejection is acceptable or if you want your application forwarded to the BOA.

Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Mary Ellen Gray". The script is cursive and fluid, with the first letters of each name being capitalized and prominent.

Mary Ellen Gray, AICP
Planning, Inspections, and Community Development Director

Cc: Application File
Glenn Mandalas