

CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
October 20, 2021

A Regular/Virtual Meeting of the City of Dover Board of Adjustment was held on Wednesday, October 20, 2021, at 9:00 A.M. in person in the City Council Chambers and using the phone/videoconferencing system WebEx. Member's present were Chairman Sheth, Colonel Ericson, Mr. Keller, and Mr. Hufnal. Mr. Senato was absent.

Staff members present were Mr. Swierczek, Mrs. Bulkilvish, Mr. Coburn, Mr. Hugg, City Solicitor Mr. Rodriguez, and Mrs. Savage-Purnell.

APPROVAL OF AGENDA

Mr. Keller moved to approve the agenda as submitted. The motion was seconded by Mr. Hufnal and unanimously carried 4-0. Mr. Senato was absent.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF APRIL 21, 2021

Mr. Hufnal moved to approve the meeting minutes of April 21, 2021, with the necessary corrections. The motion was seconded by Colonel Ericson and unanimously carried 4-0.

OPENING REMARKS CONCERNING APPLICATIONS

Mr. Dave Hugg, Planning Director stated that the meeting today will be conducted in accordance with the Agenda. There are two (2) new applications on the agenda under New Business. Each Application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. If the Board needs to consult the City Solicitor, they will recess to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

All public notice for the new applications on this agenda was completed in accordance with Code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

COMMUNICATIONS & REPORTS

The next Board of Adjustment regular meeting is scheduled for November 17, 2021, at 9:00am in the City Council Chambers and with a virtual format.

OLD BUSINESS

Applicant #V-21-01

Update on V-21-01 Lands of William E. Ardito at 4 Lakeview Drive - William E. Ardito requested a variance from the requirements of Article 5 §1.2 of the *Zoning Ordinance* pertaining to the relation of accessory buildings to streets. Specifically, a request is to allow a proposed accessory building (detached garage) to be located closer to the street than the principal building

(house). Subject property is zoned R-7 (One-Family Residence Zone). The Tax Parcel is ED-05-068.13-01-08.00-000. The owner of record is William E. Ardito. *This application was heard at the April 21, 2021, Meeting of the Board of Adjustment where it was tabled.*

Mr. Keller moved to remove application V-21-01 from being tabled. The motion was seconded by Mr. Hufnal and unanimously carried 4-0 by the members present.

Mr. Swierczek gave a brief update of the Application Request for a variance from the requirements of the *Zoning Ordinance*, Article 5 § 1.2 pertaining to the relation of accessory buildings to streets. Specifically, a request to allow a proposed accessory building (detached garage) to be located closer to the street than the principal building (house). Mr. Swierczek mentioned that a Permit was submitted to the Planning Office that presented the garage structure. The primary reason for the variance request was the applicant wanted to build an accessory structure (garage) in the front yard of their property which is not permitted by Code. The Permit showed the garage as an accessory structure, but it is not detached anymore. They provided a breezeway connecting it to the main structure of the house on the property. Staff could then consider it as part of the main dwelling structure making it compliant with Code.

Mr. Hufnal mentioned that it was one of the suggestions that the Board had made to the applicant at the time that as long as it was attached in some way to the permanent structure of the house that it would be approved. Mr. Swierczek replied correct. The Planning Office had discussed with the applicant that it did not need to necessarily be an enclosed structure but if it would share perhaps a roof between the garage and the main structure (house) that it could be considered as an extension. That is what they provided. It is not enclosed, but it does share a roof.

Mr. Keller asked if there were any subsequent withdraw of the request. There was no formal withdraw. The Planning Office just considers the case as closed since they did proceed with the Code compliant Permit. They have no need to return to the Board for the variance request on the garage.

Mr. Keller moved that Application V-21-01 be considered by the Board as withdrawn after finding that the issue at hand has been resolved otherwise within the City Code requirements. The motion was seconded by Colonel Ericson and unanimously carried 4-0 by the members present.

NEW BUSINESS

Applicant #V-21-02 515 S. Dupont Highway-Kent Del Properties, LLC has requested a variance from the requirements of Article 5 §4.7 of the *Zoning Ordinance* pertaining to the bulk standards for signs. Specifically, to allow a proposed pylon sign to be placed 10 feet from the right-of-way instead of the required 15 feet, a reduction of 5 feet. Subject property is zoned C-4 (Highway Commercial Zone). The Tax Parcel is ED-05-077.00-01-12.00-000. The owner of record is Kent Del Properties, LLC.

Mrs. Bulkilvish gave a summary presentation of the Application Request for a variance from the requirements of Article 5 §4.7 of the *Zoning Ordinance* pertaining to the bulk standards for signs. Specifically, to allow a proposed pylon sign to be placed 10 feet from the right-of-way

instead of the required 15 feet; therefore, a reduction of 5 feet. The applicant has reduced the overall height and area of the sign face to not reach the back of the pylon sign because it will be closer to the road. The property is unique in the fact that the right-of-way is actually not at the edge of the pavement. There is a large grass strip that is also considered part of the right-of-way from the edge of the pavement to where the property actually begins or where the property line is. The entrance is already set in stone. DelDOT has approved this entrance prior to any development application for this site. It is a shared entrance with neighboring 84 Lumber. Because of the DelDOT entrance where the parking can be placed on site it is kind of limited because of the drive isle having to be in line with the neighboring property. If the applicant chooses to do a different sign type such as a monument sign that would be in compliance with the 10-foot setback. They are requesting a pylon sign similar to those on neighboring properties.

Exhibits for the Record: Staff Report, Zoning Exhibit, the “Sign Table” from the *Zoning Ordinance*, a rendering of the proposed sign, a site plan of the proposed location, additional photos of neighboring signs, Applicant’s response to the variance criteria, an email from the applicant further explaining the DelDOT entrance restrictions and two drawings showing the shared entrance easement and the alignment of drive aisles to the adjoining property. Legal Notice was published in the Delaware State News on October 10, 2021. The public was notified in accordance with regulations.

Representative: Mr. Jigar Patel

Mr. Patel was sworn in by City Solicitor Mr. Rodriguez.

Mr. Patel mentioned that he was requesting an Area Variance for a sign and asked if the Board had any questions.

Mr. Keller says that he found in the packet submitted on the exhibits three (3) different proposed locations for the sign. With that proposed location (regardless of the size of the sign) it is noted that the proposed location is proposed to be within what is defined as a 10-foot public utility easement. That public utility easement would support water, electric, sewer, telephone, and fiber optic. If Exhibit I from Duffield Associates is correct, he certainly would not support the placement of an advertising sign within that public utility easement.

Mrs. Bulkilvish mentioned that Exhibit I was approved as part of the Final Site Plan approval. In the Final Site Plan approval, the location of the sign is like a placeholder. When the Sign Permit comes in is when the actual site location of the sign is determined. Exhibit I does not show the true location of the sign. The Exhibit on the screen has the placement of the sign which is behind the 10-foot easement.

Mr. Keller asked if it would also apply to Exhibit H. Mrs. Bulkilvish replied that is correct. Exhibit H is a blown-up portion of Exhibit I (Final Site Plan).

Mr. Hufnal mentioned that he was a little confused. If the Board was to approve this variance and grant 10-feet instead of the 15-feet, then the Board does not have to worry about where the public utilities are, and they would be taken care of in the Final Site Plan Approval by Utilities.

Mrs. Bulkilvish replied that the utility easement is on the front property line 10-feet back. The sign would then be from that 10-foot mark. Mr. Hugg mentioned that the Board's responsibility is to deal with the variance regarding the size of the sign. The actual final location of the sign and any other site improvements would be decided by the Planning Commission or by Staff.

Mr. Keller mentioned the Final Site Plan Approval of 2019 and November 2020 and asked if the proposed sign was at that time considered and/or discussed and noted as to a placement location? Mr. Swierczek replied that he reviewed the original submission and approved the Final Plans. The Plans that were submitted for Planning Commission and DAC review process. The Plans that had the Final Plan approval showed a placeholder item noting that there was a sign intended for the entrance. Generally, when it goes before the DAC review process, we will confirm with the applicant that a sign is intended in its general location. We will note that there will be a separate Sign Permit review process once they get to that stage in the development. When we got to that formal stage, the applicant met with Planning Staff. In light of what they wanted to do with the sign, Planning Staff realized that they might need to seek a variance first.

Mr. Keller mentioned that he was pleased to hear that with the overall site development there was anticipation of some signage later in the future and some discussion.

Chairman Sheth questioned whether this was suggested by Planning Commission that it needed to go before the Board of Adjustment. This is the first time hearing this case. Mr. Swierczek mentioned that this is the first time it has come before the Board of Adjustment. It was not a comment based on anything coming from the members of the Planning Commission. As noted, the sign indicated in the Plan submission would have shown it being in compliance, but it would be more of a placeholder. It was also noted that any future signage would have to go through a separate signage process. It was in that later process once they started developing the property after Final Plan Approval that the scope of the signage revealed it was not going to be compliant to Code.

Mr. Hufnal asked if the variance was granted then the sign itself would still be 48 feet back from the curb line of the roadway. Mr. Patel replied yes.

Mr. Keller asked if there had been any consideration of changing the sign since the sign appeared to be planned primarily as a locational or address sign as opposed to an advertisement sign. He was thinking that all of this could be avoided. The sign could be rotated 90 degrees to put the display facing the highway as opposed to north bound traffic only (just a thought). Mr. Patel replied that the sign will only have the five (5) tenants names listed that work in that shopping center (complex). It will not have anything else (nothing regarding for sale). Name of the business and no LED.

Mr. Keller asked if it was a double-faced sign, he did not see any indication. Mr. Patel replied that it will have information on both sides.

Mr. Keller mentioned that he had a question regarding an email received from Mrs. Bulkilvish. He questioned the information about the total Site Plan layout. He asked about the Site Plan with the excess of land at the easterly side (rear of the proposed) site. It appears that there is 30-50 feet of excess land. He wonders why the Site Plan could not be shifted easterly 5-feet throughout

the entire project and alleviate the necessity for a variance for a sign location up front. He thought that Mrs. Bulkilvish's question was very well presented. It seems since a shovel has not yet hit the dirt, it could be accommodated very easily.

Mr. Patel asked Mr. Keller if he was referring to moving the building back? We would still face the issue of the entrance. If we move the building back, the entrance would have to still be in the same location for DelDOT requirements to be met.

Mr. Keller mentioned when DelDOT granted a single point of access from the highway system, there is a dedicated point of access to the highway system (as noted on the plan sheet). That does not preclude someone from your site entering within that easement area. It only fixes in place the actual US13 access point for those two sites so that there is only one entrance. This reference to a T-intersection and that access granted by DelDOT does not create an on-site intersection. It may be by virtue of 84 Lumber. There is nothing but a vacant plot where your subject project/ownership is. It is not unlike going down a city street and having two driveways slightly offset. It does not constitute traffic flow necessarily on-site. A shift of 5-feet is not going to have opposing traffic on-site. Mr. Patel replied even then we would have to go through a whole new approval process to move the building back. They have already spent two years on this process. There is also a small stormwater area between them and 84 Lumber.

Mrs. Bulkilvish mentioned what you see at the entrance behind the divided median is a drive lane for people entering 84 Lumber and exiting onto the highway. Behind the driveway is a drainage culvert which restricts the movement of traffic at the entrance.

Chairman Sheth asked if it was mentioned by Mr. Keller if there was any way to avoid the 5-foot variance.

Mrs. Bulkilvish mentioned that Mr. Patel was stating that at the culvert restricts where the drive aisle is if the sign is moved 5-feet back. They would be driving into the culvert which would be a hazard. There is not a lot of room to move around at the front. It is very tight.

Chairman Sheth asked again if the variance could have been avoided even by 2-feet, 3-feet, or 5-feet? Mrs. Bulkilvish mentioned that she is not a traffic engineer.

Mr. Keller wondered what was being referenced and if it was a mountable concrete lane delineator. It is not a stormwater management or a drainage culvert. Mrs. Bulkilvish replied that is correct. There is the concrete median and then the drive aisle where people are exiting 84 Lumber can drive straight and then make the left into the exit lane to get on the 13, but then behind that, to the east of that, is that culvert. 84 Lumber sign is right at the front of that culvert. It is a large pylon sign, and she did not think it was shown on the exhibit.

Mr. Keller (40:01) mentioned the e-mail he reviewed from Mrs. Bulkilvish as well as the principle because of that idea of simply shifting back 5-feet is to me a super minor movement. I don't consider you know something of two driveways coming out onto a common entrance way is something that we require traffic impact study by DelDOT or really anyone else. I don't know how much traffic would be generated by Mr. Patel's development.

Chairman Sheth asked how many tenants and what each one (space) was, 12 feet or 1400? Mr. Patel replied that there were five tenants, and each is 1400 square feet.

Chairman Sheth mentioned he was trying to understand Mr. Keller's suggestion.

Mr. Keller mentioned that he did not believe that any challenge or that he was totally sold on the idea of when this would disrupt a T-intersection. The access easement as noted on Exhibit G provides a singular access point to the state highway system and eliminates the necessity which had been common practice years back of granting an access point to every given property along the right of way of the state highways. That access easement for a singular access point for the two properties, Mr. Patel's as well as the lumberyard, doesn't restrict the means by which on site planning would direct traffic, customers, etc. coming and going other than they enter and exit from that given access point. That's why when he read Mrs. Bulkilvish e-mail, it made so much sense to simply move, since a shovel has not yet been put in the ground even though I think a construction authorization has been granted if he is correct. To simply alter that plan 5-feet back would seem to me as a pretty sensible alternative to granting and locating an advertising sign which I thought was on the easement area by their own distributed exhibits. Now I find that perhaps that is not the case, but it is certainly in close proximity to that public easement area.

Chairman Sheth asked City Solicitor Mr. Rodriguez if the Board could put the Variance subject to the condition about your concern regarding the advertising part of each other than the name. We had that issue with the Dover Downs sign, that we didn't want them to make any circular electronics sales sign or this sign or that sign. If you remember Dover Downs doesn't have that pylon sign like Boscov or the movie theater or anything like that. The exact same question came 20-30 years back so that to northbound and southbound traffic it doesn't become a blinking traffic light. Then we were concerned, and we restricted them. That was the concern and I asked Mr. Rodriguez if he thinks that we can have a Conditional Variance. You cannot have a big sign of what you just suggested. His concerns are big sales and flashing light. Can we legally do that is the main question?

Mr. Rodriguez replied he does not think he can, based upon his application.

Mr. Keller stated that I wasn't concerned about the display. He wants to display advertising as opposed to a locational address type of a sign which this appears to primarily consist of. Chairman Sheth says it doesn't say anything about the 5-feet. Mr. Keller said you're correct. It's much like, in my recall, the entrance plan for Grottos next to Dover Downs. It has a second entrance for Grottos and Boston Market. There's one entrance when you enter, turn right, and go into Boston Market or you go past the mountable concrete barrier which is a lane delineation barrier and turn left and go to Grottos. It's that type of thing. I don't think there's monstrous traffic flow that's a disruption that's just not there. I don't believe it's a true T intersection (that term) was used in some of the language in the Report. A shift of five feet for someone coming or going and if two cars suddenly are exiting at the same time, I didn't think that there's a circumstance whereby you might have to have a red light at that intersection on site on the two properties. This is still private property on both sides. That's the point I was trying to make.

Chairman Sheth asked if he was suggesting any alternative application, or the applicant just sticks to his gun and say this is what I'm applying for, or I don't know. I'm just saying compromise.

Mr. Keller mentioned from the dialogue in the submission, I thought there were sensible alternatives to a Variance. My first concern naturally was that it was to be placed within a public easement area and I would have been totally opposed to that placement. I was at the time relying on the exhibits as submitted which depicted it as such. Primarily not Xerox copies of portions of a Plan but the Plan itself submitted as an exhibit created by Duffield Associates, the engineering firm. With that submission, I was totally opposed to any consideration for a Variance because it fell within the Public Utility easement area.

Chairman Sheth asked Mr. Hufnal if he had any comments on Mr. Keller's suggestion. Mr. Hufnal replied no, not at this point. I think they've explored all the alternatives that they had at their option and have gone through already some of the site processes. I think we have to determine whether we are going to grant the five-foot variance or not.

Chairman Sheth stated that I'm trying to bring it to five to three feet or something if Mr. Keller or the Mr. Patel is comfortable.

Colonel Ericson stated that it seems to me that he's put a lot of time and effort in this, two years to get to this point. Many people have looked at it and the best solution you've come up with is to get this Variance. It would be expensive for him in time and in money to change the whole plan. I'm not sure that's worth it. I don't see anything wrong with it being five-feet closer; it's not a safety hazard. I don't see anything basically wrong.

Chairman Sheth mentioned to Mr. Rodriguez and Mr. Hugg that this is the third time I'm going to have an issue with a Board member. Today, we have four members and case like this can sometimes create the tie and neither the Board or City, nor applicant gets the benefit of the doubt. I don't want to make the casting vote as a chairman. He asked Mr. Hugg if he could discuss this case with the mayor and I will discuss it. Mr. Rodriguez, I would appreciate it if you can help me on this case. This has nothing to do with the applicant. Under the Sunshine Law that we don't discuss out of the Board meeting, that's why I'm bringing issue up now. This is just a statement. We are not going to discuss the issue. He asked Mr. Hugg if the statement made sense. He will discuss with Mr. Hugg later.

Chairman Sheth asked the Board if they had any question for Mr. Patel.

Chairman Sheth opened the public hearing. Mr. Swierczek mentioned that Mrs. Bulkilvish mentioned that there were some people attending the meeting virtually. Mrs. Bulkilvish will be checking to see if any of them would like to speak. There was no one wishing to speak.

Chairman Sheth closed the public hearing.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Colonel Ericson asked if ultimately the exact location of the sign was going to be looked at by the Planning Commission, so it will have more comprehensive input from that point. From my point, it seems like he's done a lot of study; he's come up with the best solutions for him. Granting this variance, I don't see a negative. He is kind of hemmed in by the land he's got because of the entrance. I lean towards approving the variance. Mr. Hufnal seconded.

Mr. Swierczek stated that this application would not be returning to the Planning Commission. This had gone as a Site Development Plan for the overall development of the site. The signs themselves would not be going to Planning Commission.

Chairman Sheth mentioned that it wouldn't go to Planning Commission until the Variance was approved by the Board of Adjustment, right. Mr. Swierczek replied that there's a regular Sign Permit review process. It's a simple Permit application to the city done rather administratively. Signs themselves do not need to go to Planning Commission.

Chairman Sheth asked if the application went before the Development Advisory Committee (DAC). Mr. Swierczek replied correct, that it went before the Development Advisory Committee review process in preparation for Planning Commission. This site again overall went for the planning consideration for development of the retail building there at this site. The signs would not be returning to Planning Commission.

Chairman Sheth so the only people evaluating about this sign is our staff, right. Mr. Swierczek replied correct, yes. When a developer wishes to install signs, there's an administrative process that goes through with a Sign Permit application and that is what this would allow should the variances be granted.

Colonel Ericson commented that he would lean towards approving Variance application V-21-02 and Mr. Hufnal seconded it to also include Staff Recommendations and comments for approval. This is not a motion.

Chairman Sheth asked if there were any questions or comments.

Mr. Keller noted I based it on what was leading up to an objection and would be a "no" vote on this application based upon submission of exhibits by the applicant which gave differing information as to the location and placement of the sign within a public utility easement area. With that I would vehemently object to the approval of that. Now, it's come to light that the exhibits presented do not in fact represent the accurate placement of the proposed sign within that public utility easement area. One of the Board's responsibilities is to not act contrary to public benefit. The placement of that sign within that public utility easement area in my estimation and in my considered thought at the time would have done exactly that. It would not have been proper to have placed the advertising sign within the public utility easement area as depicted on no less than two possibly three of the exhibits presented.

That's all for just careful reconsideration of my comment and discussion regarding the sign placement. I will add that I somewhat question whether there is exceptional difficulty presented when there are alternatives to location for that sign. I was pleased to read Mrs. Samantha Bulkilvish's question about the placement of the sign by virtue of simply sliding that entire plan

back five feet as well as alternative possible sign locations. For going perhaps one parking space and place the sign within it and in accordance with the required 15-foot setback would have been another solution. There were solutions presented and that's why I was during the course of review of this applicant's package finding myself not in favor of granting a Variance. That's all that is submitted now for clarification.

Chairman Sheth mentioned by viewing and listening your comments towards the other members, one small feeling of comfort is not going to establish a big precedent; so we more worried about it, and we are right. That's why I asked the applicant who was the designer of the Plan. If they were to bring them here, then there would probably have been more information.

Colonel Ericson stated that he wanted to clarify one thing. I agree with Mr. Keller's comments and his concerns. There is no motion on the floor.

Chairman Sheth mentioned that I agree with you. The question that was thrown in was the number of feet. He did not get the form from the applicant. With the five feet and what you view is right, it is not a big precedent for that establishment. At the same time, Mr. Keller is absolutely right as we follow the ordinance. The applicant cannot prove it. If there was any hardship, then we sometimes have hard times. That's where we are. 10:06 (11) I'm trying to say when I asked help from Mr. Rodriguez to help me say five members present would help rather than four. Would you agree with that statement? Right now, we're going to have four members and a motion is on the floor.

Mr. Keller mentioned as a point of order Chairman Sheth, I agree 100% with Colonel Ericson. He expressed an opinion and it seemed to be somewhat leisurely taken as a motion and there was a second by Mr. Hufnal, but I don't believe Colonel Ericson formulated a formal motion, am I correct?

Chairman Sheth asked what are we voting on? Mr. Keller replied we're still absent right now in motion as to how we proceed.

Mr. Chairman are you proposing that we table this, and you go talk to the mayor?

Chairman Sheth replied I'm not proposing that. I'm just going to suggest to the mayor about those members who cannot or are able to attend on and off you know. We like to have five members. For example, if you make the motion, Mr. Hufnal second or even if it is 2-2. Okay. So, question is we don't want to establish a precedent for the tie breaker. This is a valid motion; we leave it on the floor, and we call for and up and down vote. Can this be done?

Colonel Ericson mentioned I don't think the applicant should be left in limbo because we have a missing member. I think we should go ahead and do our job and finish this case today. Mr. Rodriguez and Chairman Sheth agreed.

Chairman Sheth mentioned that's the reason. Basically, by raising this question, I asked him directly on permission that I'm going to discuss this thing not with the case but with the mayor. I need 5 members, if I need to be a chair. It's the question I'm asking you, so I hope you support

that this is a very good question. Am I right Mr. Hufnal? We need more than four members. That's the question I'm going to discuss with the mayor. Mr. Hufnal, I think we could vote on it today.

Chairman Sheth stated that they will not hold back anything or any table. He just wanted the members to have an understanding of what he was trying to tell them. It has nothing to do with this case.

Colonel Ericson stated that I think we all agree with Mr. Chairman.

Colonel Ericson made the motion that I hereby move that we approve Variance Application V-21-02 based upon the Staff Report and the testimony given. The motion was seconded by Mr. Hufnal and unanimously carried 4-0.

Chairman Sheth asked if there were any questions.

Roll Call Vote

- Colonel Ericson - yes
- Mr. Hufnal – yes
- Mr. Keller – yes, with some reservation as to the presented exhibits being contrary to one another with regard to the location of the proposed sign as well as some reservation about whether or not this application meets the exceptional practical difficulty standard. With that in mind and due to consideration as to the enlightenment on the exhibits during the course of testimony I vote yes.
- Chairman Sheth – yes

Applicant #V-21-03 805 and 815 Forest Street, and 726 West Division Street. Victor Giangrant has requested variances from the requirements of the *Zoning Ordinance*, Article 4 §4.15 pertaining to the maximum lot coverage in the C-3 (Service Commercial Zone), and Article 3 §27.67 pertaining to the lot coverage and the front, side, and rear yard setback/landscaping requirements for the Corridor Overlay Zone (COZ-1). They are requesting the variances to be able to develop and utilize the existing two lots addressed as 815 Forest Street and 726 West Division Street for their expanded car wash facilities, namely twelve (12) new parking spaces with vacuum stations. Subject properties are zoned C-3 (Service Commercial Zone) and are subject to the COZ-1 (Corridor Overlay Zone). Tax Parcels: ED-05-076.08-01-40.00-000, ED-05-076.08-01-38.00-000, ED-05-076.08-01-39.00-000. The owners of record are Clean Cars Inc. and Melinda F. Giangrant.

Mr. Swierczek gave a summary presentation of the Application Request for a variance from the requirements of the *Zoning Ordinance*, pertaining to the maximum lot coverage in the C-3 (Service Commercial Zone), and pertaining to the lot coverage and the front, side and rear yard setback/landscaping requirements for the Corridor Overlay Zone (COZ-1). They are requesting the variances to be able to develop and utilize the existing two lots addressed as 815 Forest Street and 726 West Division Street for their expanded car wash facilities, of twelve (12) new parking spaces with vacuum stations.

Mr. Swierczek stated that the applicants did come before the Board in August 2019 with a

similar request. Originally, they had sought to use the two properties to the west of their car wash facilities, that being Westside Car Wash, to remove the existing structures which had been single family homes or at least had been in the format of single-family homes and initially to pave them in their entirety. Upon the initial review, the applicants had agreed to withdraw the application pending revisions. This was a subject of the revised submission by the applicants. If you can see there, it should be also on the maps that were provided to you in your packets. They did return a revised submission that shows a 5-foot landscape buffer being provided along the west side of those two property lines and the west side would be towards the top of this Site Plan. That would bring it into compliance with one of the provisions of the Corridor Overlay Zone which they had originally been asking for variance from but no longer anymore. This was along nonresidential boundary lines that they provide a 5-foot landscape buffer. Staff definitely acknowledges that they provided that and they are making an effort to come into compliance with some of the provisions of the zoning. This does still leave however three parts of Code that they would currently be asking a variance from. Namely that in the C-3 (Service Commercial Zone) there is a maximum lot coverage of 80% and then for the Corridor Overlay Zone there is a minimum open space requirement of 25%; so, in effect a 75% lot coverage requirement as well as a 25-foot open space along street frontages. These are provisions of the *Zoning Ordinance* in the Corridor Overlay Zone that seeks to utilize these areas, particularly the main commercial corridors in the city, to enhance them aesthetically by providing landscaping. Generally, there are some additional architectural requirements. The development that they are proposing pertains only to the two western parcels. The Westside Car Wash main facility is towards the bottom of this plan on the east side of the overall site. That is considered existing conditions so these would not be applying to that main parcel. It would only be applying to the two parcels that they are redeveloping. With this new submission, I will note that they have demolished the two existing structures. They did obtain permits and demolish those. The sites are in effect ready for redevelopment. In our assessment of this, Planning Staff does again note that they had made revisions to bring it in closer to compliance with *Zoning Ordinances*. We do acknowledge that the business located at this location prior to the implementation of the Corridor Overlay Zone. It can be difficult for some property owners who were located or business owners who are located in this area prior to the implementation Corridor Overlay Zone to come in compliance with it. We are acknowledging that it would be a hardship for them to come into full compliance with the lot coverage requirements namely again 80% for C-3 and 75% being the greater of the two for the Corridor Overlay Zone. However, Staff had some questions as to whether or not they could still adhere to the 25-foot open space or landscape buffer on the street frontages. You can kind of see on the side there where that 5-foot landscape buffer has been sort of wrapped around on either side of the parking spaces; that would be 5-feet. By looking at that, if you can imagine, roughly 25-feet overall, another 20 feet into the site, that would still allow them space to provide parking spaces. We are not engineers in the Planning Office or site surveyors but looking at it as a rough estimate it would be 9 to 10 parking spaces still. Planning Staff was not supportive of a variance for that 25-foot landscape buffer. However, I will again, say that we do acknowledge and think that it would be a hardship to make them be fully compliant with lot coverage requirements. I am happy to answer any questions. Thank you.

Chairman Sheth questioned if there was any member present who had a conflict of interest and there was none.

Representative: Mr. Victor Giangrant, Owner.

Mr. Giangrant was sworn in by City Solicitor Mr. Rodriguez.

My name is Victor Giangrant and I own and operate Westside Car Wash along with my family located at 805 Forest Street, Dover, Delaware. We've been in this same location for 40 years. There is a new business model sweeping the car wash industry. It is called express car washing. When a customer pulls up to an express car wash, they place his or her order on a kiosk, select their car wash from the kiosk and they move on to the full automated car wash and receive an exterior car wash. They sit in their car the whole time. They go through the automated wash. They come out the other end clean and dry. They pull around to self-service vacuums where they vacuum out the cars themselves. This kind of system is operated with minimal labor, no human interaction. There is one employee to run your express wash. Prices for the express wash is \$5.00 to \$8.00 for the basic wash. Due to the high cost of labor, this has become a new wave of the industry. For us to stay competitive, we need to put self-service vacuums in. There's another major competitor in our industry known as the driveway car washer. Many municipalities across the country don't allow driveway car washing due to several reasons such as water shortage, global warming, and excessive wastewater in the storm drains. According to the International Carwash Association, it takes 50 gallons of water to wash a car in the driveway. Whereas, in a professional car wash setting, it takes 6 gallons of water to wash a car and the soap and wastewater goes directly into the sewer. We are an environment friendly business. We are trying to keep the prices low and offer free vacuums to lieu in the driveway car washing into our professional car wash facility. We need to stay competitive in our industry. We've been in this location for 40 years and we have built a business for our full-service customer's needs. We will always offer full-service car washing. We are the biggest car wash service employer in the Downtown area. We employ over 120 people a year and we strive to keep all our employees working. The high cost of labor is driving the cost of full-service car washes higher and higher. We need to stay competitive and offer express washes and vacuums to complement our full-service car wash and give our customers the option to vacuum out their car themselves. I would also like to state that these variances were not in place when I purchased these properties. I purchased these properties with the intent to expand my business one day and this is one day.

Chairman Sheth asked a question regarding Mr. Swierczek's comment regarding the 25-feet. He asked the applicant what he thought about the comment. Mr. Giangrant replied that it would create a hardship to invest all this money and not adequately supply my customers with the proper parking spaces.

Chairman Sheth asked if the 25-feet, 15-feet, or 10-feet would create a problem. Mr. Giangrant replied that it kind of works perfectly on that drawing, although we could add more. Instead of blacktopping some that area, we could fill it with green space, grass, or trees; you know those two little slivers.

For a car wash our size, we need 12 spaces. Usually, car washes that are our size or our competitors they've got 12-14 spaces. Chairman Sheth stated that I understand you have to think about what you have. Mr. Giangrant replied yes.

Mr. Hufnal commented that from the previous submission, you had 13 spaces and you have now reduced it to 12. You also took the motorized power unit that was on the end which would have been across from the residential and you put that in the center which is what we had suggested; so, you've done those changes. I think what you're saying now is that triangular piece that's between the grass and the 12th and the 1st you would leave that open and not put asphalt in there, is that what you're saying? Mr. Giangrant replied yes.

Mr. Hufnal also commented that we had mentioned to consider this impervious space. We talked about using porous asphalt, where water would run through and drain. Then you wouldn't have to worry about any retention ponds or anything like that when you use the porous concrete. If you use porous concrete, we could eliminate the coverage requirement, right? Mr. Swierczek replied speaking generally, I believe, the process is, if someone were to submit an application and go through the Development Advisory Committee review process, there is a method by which they could use what would be considered pervious pavement versus impervious. That would have to be evaluated by an engineer first and then our city Staff, namely Public Works or Department of Water & Wastewater. Engineers would have to verify and agree with an engineer's statement. There would be a process by which they would first have to establish that. I'm not sure off the top of my head how that would work with DNREC. Chairman Sheth asked about how it would work with the Kent County stormwater system if more than 5000 square feet needed. Mr. Swierczek replied that whenever there is a new development proposed on a piece of property, the threshold would be 5000 square feet of site disturbance. Anything over that would trigger an evaluation by the Kent Conservation District or DNREC, and they would have to issue a stormwater management sediment control plan approval.

Mr. Hufnal asked if the Plan had been before Planning Commission or DelDOT, is that right? Mr. Swierczek replied that would be correct. Those agencies would be part of the Development Advisory Committee review process.

Mr. Hufnal questioned if there was a porous asphalt that's used, they would be the ones approving it at that time, right? Mr. Swierczek replied formally yes. If that was an avenue by which the applicant would look to pursue, we would advise that they probably reach out to those agencies ahead of time to advise on the procedure to get that verification. Then we would need to present that to the Planning Commission to ensure that they would still be meeting maximum lot coverage requirements.

Chairman Sheth mentioned being honest as he has gone through that, it is probably the most expensive way to go. Mr. Hufnal stated, I know, but that's a possible way to eliminate some of the objections. Chairman Sheth mentioned that they are very strict about it, as I remember. Mr. Swierczek replied that would be correct. I will advise that it is sort of twofold in that there is an 80% maximum lot coverage requirement for the C-3; however, with the Corridor Overlay Zone it is a minimum 25% open space requirements that we generally need to be landscaped that would essentially have to be grass or plantings.

Chairman Sheth asked the applicant who drew up the Plan. Mr. Giangrant replied the surveyor Bill Elliott.

Mr. Hufnal stated that I understand why he did the 5-foot buffer and the other to help with the open space.

Mr. Keller mentioned that it surprised me a little bit but in reading the information provided I think there's an explanation. I was curious as to why this is not considered as one larger site. He bought the two houses and they have subsequently been demolished; and, we now have one giant open space if you will. On your final advisory comments to the Applicant, I note that consolidation of the properties are subject to Site Development Plan approval processes through the Planning Commission and appropriate permits from the City of Dover Department of Planning and Inspection and other agencies. Would it have benefited Mr. Giangrant or would it now even to initiate that process if it is not yet been done? If so, how would that affect what is taking place with his Site Development Plan? Instead of looking at an old house site that's now vacant and the various coverage elements, etc. required and the same way on the other former house site which is now vacant and part of the larger entire car wash system, would it have been to his advantage, and would it have made a difference? Or would it if he even pursues that now in those various lot coverage requirements, etc.?

Mr. Swierczek just to clarify are you're asking specifically regards to the lot consolidation process? Generally speaking, no, that would be as you noted part of the Site Development Plan review. In conjunction with the Site Development Plan process, they could submit a Lot consolidation review process that would require recordation with Kent County. The reason why we worded the report as we did is because again that eastern property has none of the proposed changes, developments, or expansions to impervious being considered for the existing business site. If we were to enforce development of those two western parcels, that is the bulk standards for those two western parcels. If we were to retroactively impose those on the eastern parcel, we think that would be frankly an extreme hardship on the Applicant since they are not proposing any of the development for there. That's why we are considering those two parcels as separate and that we would apply the bulk standards only for the pieces of land that are being developed, if that makes sense and does that answer your question?

Mr. Keller replied, I think it somewhat does, but it was just in my mind. If I own a 100-acre farm and I buy Joe Blow's farm next to it of 50 acres and Sally Smith's farm on the other side of 50 acres, then suddenly I have a 200-acre farm. This gentleman owns a car wash. He bought a house and tore it down, brought another house and tore it down. It's attached to and contiguous to his original site. Why wasn't it just now a large car wash property and it wants to make a couple additions? There is as I read the documents before me, there is a process for that, would it behoove him to undertake that and gain a better address to his additions of the vacuum facilities, etc. That's where I was coming from with that question.

Mr. Hufnal questioned if this car wash is prior to the zoning and the overlay zone, and he did have these all-in-one parcels in one tax record, wouldn't these changes be grandfathered into the original portion that he owned?

Mr. Swierczek replied to an extent, yes. Let's say Mr. Giangrant had consolidated the parcels and then came to us and stated that now I want to redevelop what is now my single parcel. We would take into consideration the existing conditions on the site already. When combined if they were already over lot coverage that would be considered legal nonconforming, and they would

just not be able to expand it. Similarly say on the eastern property line, they were too close to that boundary, they would be able to reuse that sort of newly established side yard setback. Just again, not increase the nonconformity. For the sake of this development, they are at present three separate parcels and that eastern parcel is not subject to any of these proposed renovations. We thought it simpler on the applicant to consider it and apply it only to the two parcels being redeveloped and consider it an existing condition which is what it is.

Mr. Hufnal mentioned, I think you can see my point of view as far as combining it into one. If the car wash itself is grandfathered, then why wouldn't the other proposals be grandfathered?

Mr. Keller mentioned that I was going to say to play into that. Mr. Swierczek, I was curious as to why we still denote 726 West Division Street and 815 Forrest Avenue? They no longer really exist; there's not a structure. There's not inhabitant living there; there's not a house. It's a vacant lot. Mr. Swierczek stated that they do still exist. The parcels are separate from the main ones and as such they do have separate addresses even without a structure. They are separate addressed parcels.

Mr. Keller questioned may I assume that they would be eliminated by address if Mr. Giangrant would go through that larger parcel process? Mr. Swierczek replied correct. When there is a Lot Consolidation process for parcels, there is a formal process by which once those are recorded. Then I believe it is the Tax Assessor's Office that would assign a new address for the overall parcel of land.

Chairman Sheth mentioned if there was a compromise from 25-feet or less or something and maintain those five impervious requirements, he would financially and timewise be better off. He has gone through this with Kent Conservation District; and they always stick to their guns.

When I look at this plan and I thought about it, then I'm glad Mr. Swierczek gave it. But it's up to the Applicant on what is best for them to compromise and do it. Our sticking point is only one thing right now right, the 25-feet? Applicant you have heard the questions from Mr. Keller and Mr. Hufnal, my suggestion, and Staff and Mr. Swierczek statements as to why they have come up with this.

Mr. Giangrant asked would it be beneficial to consolidate first? Chairman Sheth replied that he was only making a suggestion.

Mr. Swierczek said correct me if I am speaking out of turn. This isn't an uncommon occurrence in the city when we see redevelopment in that a property owner would acquire other parcels and seek to redevelop them. It is universal and that the Site Developments and Lot Consolidation processes would occur concurrently. Planning Commission does consider both and Planning Commission does not require one to be done without the other. In such situations, we advise the members of the Planning Commission that for example, in this situation, the eastern parcel is considered existing conditions; they are not redeveloping it. So, the bulk standards for the redevelopment are applying only to the parcels of land being redeveloped. Mr. Hugg stated that he would concur.

He noted that the one variance request which is a landscaped open space for at least 25-feet. I think it's my feeling that the variance would be required whether it's one property or three properties. Consolidation doesn't necessarily benefit you or perhaps harm you in that consideration. I would be concerned about the maximum lot coverage of the consolidated properties. Issuing indicates the existing conditions would support not jeopardizing the whole property by virtue of it being back up. Basically, your existing car wash is fully developed except for a very small area that has a little bit of grass on it. It's pretty much all paved. Your lot coverage is close to 100% on your existing parcel, is that correct? Mr. Giangrant replied yes, that's correct. It would be grandfathered on that piece of property.

Mr. Hugg stated that I would just be concerned whether that would benefit or not benefit the lot coverage consideration for the balance. The 25-foot issue is still outstanding regardless of whether it's one or three lots.

Mr. Hufnal asked a question about the Forrest Avenue and Division Street strips of land that come down by the 1st and the 12th parking spot. If you extended that down further is there an exit and entrance in those areas? Mr. Swierczek stated for the record that the Applicant did point that there is an existing entrance on the western parcel on Forest Street as well as an existing entrance on the existing parcel facing Division Street.

Mr. Hufnal mentioned that I guess my point was those landscaped areas that he had could they come down? Could they be extended to the entrance or are they already at the entrance?

Mr. Giangrant stated that's a great idea. I think you can do that.

Mr. Hufnal asked if you see what I'm talking about. I think he has only extended it to the length of the parking spaces there for the vacuuming area. If they were extended down to the drive entrance would that make a difference in what's covered.

Mr. Swierczek stated it would but as a general note and I think this was noted in your report as well. When this goes to the DAC process for Planning Commission, one of the agencies that will be involved in this Site Plan review will be on the Delaware Department of Transportation. I know Mr. Giangrant had indicated that he does not intend to change the site entrance points which is understandable. We did include in the advisory comments; however, it is entirely possible that DelDOT will require an entrance change or site access change to the properties. That will obviously have an impact on what can be done with something like landscaping. To advise on behalf of the city, generally speaking, the city does have minimum drive aisle dimension requirements. I'm not sure what it would be for this property. Provided that were maintained and the subsequent site access dimensions were maintained and permitted by DelDOT, then part of the DAC review process would of course be encouraging the applicant to maximize landscaping wherever possible. If there was land available, we would encourage that it be landscaped.

Chairman Sheth mentioned if you disturb the entrance, DelDOT will make you spend so much money.

Chairman Sheth asked Julian how we lead this case, and you know that we are here for 25-foot variance, you asked for it. Whether we say yes or no, we try to be helpful.

Colonel Ericson questioned if you had to get the 25-foot what would be the hardship? What you would lose is a space in the vacuuming area.

Mr. Giangrant replied it would be the safety of the vehicles going in and out of the area.

Customers will be able to make this turn. You go into the vacuum spaces. I have found in my 40 years of dealing with the public that 99.9% of accidents happen in reverse.

Colonel Ericson asked so the hardship will be two things: one safety of the cars going in and out of there if you had to do that and the other thing would be loss of capability of servicing your clients. That makes sense to me. Mr. Giangrant replied I need to be able to compete with my competitors.

Mr. Hufnal stated that I think the safety factor is very important in a case like this. I mean you've got traffic going in and out both ways. You certainly have to concern yourself about how the traffic flows and the safety factors of the cars that are there.

Colonel Ericson stated that you are not setting a precedent because this is an unusual shaped property and it's unique. Because it's unique you can't meet the requirements of the Code.

Mr. Giangrant stated that it would be as stated on the Plans, 5-foot of green space on the western side. Otherwise, it would create a safety problem. It would be impossible to get a car in and out. Think about it how many times have you gone to a Kmart or Target, and it was somebody blocking the way. You were trying to get into your parking space and you couldn't do it. That's a recipe for disaster.

Chairman Sheth asked what will happen if the variance is not approved. Will you let the project go? You close it or you don't do it? Mr. Giangrant replied he would not be able to do the project. How would he be able to do it? It is going to create a hardship for me.

Mr. Hufnal asked if you don't get the project, it would be hard to compete with your fellow car wash people, is that correct? Mr. Giangrant replied I can't compete, I'm stuck.

Colonel Ericson mentioned that the only thing I didn't understand in your presentation was you stated you had 126 employees. Mr. Giangrant replied that 126 employees passed through his door last year.

Colonel Ericson asked are you going down to one employee? Mr. Giangrant replied, no. Like I stated, we are going to stay full service. Our full-service power washers are bread and butter. That's what we do. We vacuum out, wipe your windows, doors, and jams. We lick the car clean. We need this alternative to survive.

Colonel Ericson asked I thought you said that the customer vacuums their own vehicle.

Mr. Giangrant replied that the customer can do it themselves yes. They do have an alternative to choose. We all know what is going on in our country. Minimum wage is going to go up to \$15 an

hour by 2025. This coming January it will raise up another dollar. Every January it is going to go up a dollar until it hits that \$15 mark. I am competing against Dunkin' Donuts who is offering \$15 an hour to pour coffee. This is why this business model is sweeping the car wash industry because it helping to generate revenue. If you can't afford \$21 and \$25 for a full-service car wash every week, maybe you can come in once a week and get your car washed and vacuum it out yourself.

Chairman Sheth asked the question what you want to do? Do you have any suggestions about the 25-feet? Mr. Giangrant replied it cannot be done, 5-feet works perfectly.

Colonel Ericson said what you are saying is if we don't give you the variance that in fact your property is unusable? Mr. Giangrant replied it is worthless to me and it's worthless to anybody else who buys it with those setbacks.

Chairman Sheth opened the public hearing.

Mr. Tolano Anderson stated that he had a couple of questions related to the project specifically, because of the Corridor Overlay Zone and specifically because of the traffic impact that the facility has had. I would like for someone to address it or at least speak to it. As you all know, this car wash spilled a lot of traffic onto the street and backed up traffic onto Forest Street. I don't know if DelDOT has addressed this, but I have in some cases counted as many as 20 to 25 cars lined up on the street blocking traffic, blocking ingress, and blocking egress. I am just a little bit concerned that the vacuums are going to cause people to come in and back up and turn around and maneuver in a way that's going to back even more traffic out onto the street. Those buffer requirements I think are important for the goals of the Corridor Overlay Zone. Traffic is also a very serious consideration under the circumstances. If denying this request is going to shut down or stop the project, by my calculation the car wash would lose 3 parking spaces. If a difference of three parking spaces to avoid this 25-foot buffer is enough to shut the whole project down, then I think it probably needs a little bit of revaluation. At a minimum, I believe that there are processes through the Development Advisory Committee that will allow for a study to determine how to alleviate the traffic and the adverse impact of this traffic on the local neighborhood in the local area. I think that should be addressed. Thank you very much for your time and I appreciate someone speaking to those points. Thank you very much.

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

Chairman Sheth open discussion from the floor.

Mr. Hufnal asked if the project itself has not been reviewed by the Planning Commission or has it been reviewed by the Department of Transportation? Aren't they going to take into account some of these considerations that have been brought up in in their deliberation?

Mr. Swierczek asked if Mr. Hufnal was referring to the 25-foot landscape buffer? Mr. Hufnal replied no, he was referencing the traffic concerns that were mentioned.

Mr. Swierczek mentioned again it is noted that the Delaware Department of Transportation is

part of the Development Advisory Committee. They will be reviewing and issuing comments on this project. The City of Dover Planning Office cannot issue final plan approval on any work without first obtaining approval from DelDOT.

Colonel Ericson mentioned that in this variance, it really doesn't allow us to discuss traffic or that's an issue of traffic and congestion that other people look at. Mr. Tolano Anderson brings up a good point. If the owner would like to address that if he anticipates whether it's going to be a big increase or not; it might be an appropriate opportunity.

Mr. Giangrant mentioned that the impact will be minimal. It takes about 10 minutes to vacuum out a car. If you have 12 spaces, it kind of flows well for ingress or egress of the customers. Again, that's why 12 stations are important so that they can get in and out without creating a traffic problem. I would also like to comment about Mr. Anderson who called in. I believe he's got a conflict of interest. I spoke against the homeless shelter being at his property as it's adjacent to my car wash. I think he has a conflict of interest. I just want you to understand that. I don't believe there should be any other dramatic increase in volume traffic. If there are 12 spaces, they will come and go.

Mr. Keller asked the applicant if he had any feel for the number of people that may elect to forego going through your car wash for the full complement of vacuuming, washing, drying, etc. Is there any way you can anticipate the number of customers just vacuuming their car? Mr. Giangrant replied that 60% of my business are seniors. They are on fixed income. The cost of living is going to hit them directly and they are not going to have \$20 every week to get a car wash. Let's say, when you're driving down the road and you drop your donut on the floor, then you say I just had this thing washed last week so I want to pull in and get a vacuum.

Mr. Keller asked do you anticipate a large price difference? If you have a sign that says wash only and no vacuum services that is going to be \$10; and a full complement is \$12. Well for 2 bucks I'll get the full complement and get my car vacuumed by you as well as the drive through wash job.

Mr. Giangrant stated that we have prices fixed for the exterior wash where you sit in the car and you drive through it for \$7. It's been that price for years. The full service which is the next step above would be the full service where we vacuum out your car, wash your windows, wipe your door jams, and towel dry car for \$18. Our prices are going up. Again, we are competing with McDonald's who are also paying their employees \$15 an hour. It has been an interesting ride.

Chairman Sheth mentioned the Board decides within the Ordinance.

Mr. Keller asked the applicant or Mr. Swierczek the purpose of the three-foot-wide concrete walk at the outer perimeter of the spaces where vacuuming. Mr. Giangrant replied the vacuum cleaner is going in the middle and then the suction equipment. Mr. Swierczek noted that the vacuuming of the central equipment will be in that sort of shaded parking area in the middle and at that 3-foot paved area will be sort of connection to the individual vacuum stations at each parking space.

Mr. Hufnal asked if he agreed to put landscaping in that triangular piece on the end of each of the parking spaces; is that correct? Mr. Giangrant replied yes. If I can, follow that all the way down to the egress and ingress to the opening on both sides. I want to give you as much greenery as I can. I don't know if you have ever been to the Westside Carwash, or driven past it, but I've got potted plants, flowers, and trees. I keep it running and a tight ship.

Chairman Sheth mentioned if the Board gives them a variance with all these suggestions he made of what he will do, does he still have to go through DAC and everything else? During that time, he decides whether he wants to continue this project or not or whether Highway Department wants to do it or not. If we deny it, then he just cannot come back for a year. If you approve and that is becoming a financial issue for him that time, he has to decide what KCD, DelDOT and everybody else wants. Anytime you touch an entrance the costs ranges from \$25,000 - \$30,000 or if it is 15-feet because of the DNREC requirement. I know that's not the Board of Adjustment's problem. The applicant has to decide. Today the Board of Adjustment has to make a decision on the Variance to approve or not approve. We have received enough information from the applicant and Mr. Swierczek.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Mr. Swierczek stated that the Planning Office did not receive any correspondence specific to these Variance applications.

Colonel Ericson commented that this Car Wash has been here a long time, long before I arrived in the community. The applicant has testified that if we don't give him the variance then the properties will be usable to him and a lot of people will lose their jobs because of it. The big thing is to me that he has shown he's got a hardship. The safety of the vehicles getting in and out of the vacuuming area could cause a lot of problems. It's a unique piece of property that we probably won't run into again. If he doesn't get improvements, he's just not competitive. In my mind he justified being granted the variance.

Mr. Hufnal stated that I agree with Colonel Ericson. Staff is already supportive of the increase in the maximum permitted lot coverage. They supported that. They didn't want to support the 5-feet. Based on the information given by the applicant and the hardship it creates on his business, I agree with Colonel Ericson that we should grant the Variance.

Mr. Hufnal moved to grant Variance Application V-21-03 from the 25 feet to the 5-feet and that Staff has already noted that they are already supportive of the increase in the maximum Lot coverage and based on the other testimony given today and the comments made, I'm in favor of approving application V-21-03. The motion was seconded by Colonel Ericson.

Chairman Sheth asked if there were any questions regarding the motion.

Roll Call Vote

1. Chairman Sheth - yes

2. Mr. Hufnal - yes
3. Colonel Ericson - yes
4. Mr. Keller - yes
5. Mr. Senato – was absent

Mr. Keller stated that with the discussion regarding the historical nature of this property, its past and continued use as a car wash and with the expressed concerns of an exceptional practical difficulty arising in the event the variance requests would not be approved, I think it has been presented that it would in fact greatly impact a future continuous use and development of the site. With those considerations in mind, I vote yes.

All in favor, motion passed.

Chairman Sheth asked Mr. Swierczek as a suggestion if in the future if the applicant or if an attorney can present the applicant's prepared plans? This could cut down on a lot of discussion and give the right answer.

The meeting was adjourned by Mr. Hufnal and seconded by Mr. Keller at 11:18 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary