

The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware

Phone (302) 998-2215 Fax (302) 998-992

EXHIBIT

tabbies

20-16 A

Application for Hearing

☐ Board of Adjustment

☐ Planning Commission

Petition # 20-16 Filing Fee: 300- Date Received 10/20/20 Received by: Dms

Subject Property: LOT ACROSS FROM PD Supply O Commerce Drive

Property is:

☐ Residential

☒ Commercial

Tax Parcel # 00200-288 Zoning District: G1

Applicant name:

J+V Holdings, LLC

Address: 307 Commerce Dr Telephone # 302-655-3358

City: Wilmington State: DE Zip Code: 19805

Application for Zoning Variance Related to: _____

☐ Front yard setback

☒ Lot Coverage

☐ Rear yard setback

☐ Fencing

☐ Side yard setback

☐ Parking requirements

☐ Lot Area

☐ Signage

Application for Special Exception Use Permit for the following use: _____

Application for Appeal of an Administrative decision: _____

By: _____ Date: _____

For the following reasons: _____

A Council – Manager Municipality
Located on the Net at townofelsmere.com

PD Supply

Jeff Rushie Cell 302-753-0438 / Jeff.Rushie@gmail.com

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20-16 B

Application for relief other than above:

State reasons for this request: ASK FOR VARIANCE Form Ch 225 ATT #3To Allow building 50'x50' Building

Has a previous application for this property been filed with the Town?

Yes

No

If yes, Petition # 16-09-A

If the applicant is not the Legal Owner of the property:

Legal owner information:

Name:

J+V Holdings LLC

Address:

307 Commerce Dr

Telephone #

302-655-3358

City:

Wilmington

State:

DE

Zip Code:

19805

Please submit the following with this petition:

- A copy of a plot plan showing the following: location of the property; a diagram showing the layout, size, and location of existing structures on the property.
- A copy of any deed restrictions on the property.
NOTE: THE BOARD OF ADJUSTMENT OR PLANNING COMMISSION CANNOT APPROVE ANY APPLICATION PROHIBITED BY DEED RESTRICTIONS.
- Filing fee, payable to the Town of Elsmere.

The undersigned hereby certifies that the legal owner of the subject property is aware of, and agrees to the filing of this application, that the information submitted herein is correct, and agrees to be bound by any decision of the Town of Elsmere Board of Adjustment with respect to the subject property.

NOTE: The legal owner and his/her authorized representative must sign this form.

Applicant's Signature:

J. J. Rushie

Date:

10/20/20

Legal Owner's Signature:

J. J. Rushie

Date:

10/20/20

VARIANCE HARDSHIP WORKSHEET

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2016 C

Town of Elsmere Petition Number: 20-16

Property Owners Name: J & V Holdings LLC

Person(s) Representing the Property Owner: Jeff Rushie or Kevin Coyle

☐ Additional page(s) attached

Applicants, please be aware that the following are the prerequisites to the granting of a variance:

A variance may be granted when it will not be contrary to the public interest where, owing (due) to special conditions, a literal enforcement of the provisions of the Code of The Town of Elsmere will result in unnecessary and undue hardship.

The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations.

Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance.

Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to recommend the approval of or authorize any variance from the terms of the code, the Planning Commission or Board of Adjustment must find all of the following factors to exist:

- (1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification.

Please explain how this applies:

N/A

- (2) That the special conditions and circumstances do not result from the actions of the applicant.

Please explain how this applies:

The zoning code is from The Town of Elsmere

- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of the code to other lands, buildings or structures in the identical zoning classification.

Please explain how this applies:

- (4) That literal enforcement of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of the code and will constitute unnecessary and undue hardship on the applicant.

Please explain how this applies:

- (5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

Please explain how this applies:

- (6) That the granting of the variance will be in harmony with the general intent and purpose of the code and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Please explain how this applies:

- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of the code to other lands, buildings or structures in the identical zoning classification.

Please explain how this applies:

Construction will be similar

- (4) That literal enforcement of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of the code and will constitute unnecessary and undue hardship on the applicant.

Please explain how this applies:

Code was OK when we bought it - no longer applicable with new code. Thanks to develop w/ new provisions.

- (5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

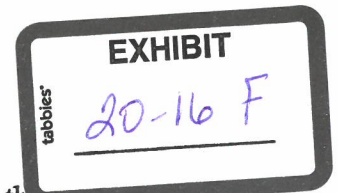
Please explain how this applies:

Only asking for minimum variance.

- (6) That the granting of the variance will be in harmony with the general intent and purpose of the code and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Please explain how this applies:

Will match similar structures.



I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed Code Enforcement Department representative. I am fully aware that it is solely my responsibility to prove that my petition meets all of the aforementioned criteria.

Signature of applicant: *Jeff Rushie*
Date: 10/20/20 Email - Jeff.Rushie@gmail.com

Signature Code Department Representative: _____

Date: _____

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20-16 G

Parcel No. 002-00-288

Prepared By:

The Law Office of Joseph Meyer, LLC
2706 Kirkwood Highway
Wilmington, DE 19805

Return To:

J & V Holdings, LLC, Commerce Street Series
307 Commercial Drive
Wilmington, DE 19805

CERTIFIED TO BE A TRUE &
EXACT COPY OF ORIGINAL

THIS DEED, Made this 28th day of December, 2018,

BETWEEN, Jeffrey T. Rushie and Victoria E. Rushie, husband and wife, of New Castle County and State of Delaware, parties of the first part,

-AND-

J & V Holdings, LLC, Commerce Street Series, a Delaware limited liability company, party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of **TEN AND 00/100 DOLLARS (\$10.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said party of the second part, in fee simple:

ALL that certain lot, piece or parcel of land situate in Town of Elsmere, New Castle County, Delaware, known as Lot No. 4 as shown on Record Minor Subdivision Plan prepared for Michael A. Fogarty for Property known as 9 Colonial Avenue prepared by Franco Bellafante Associates dated August 28, 1995 and recorded in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Microfilm No. 12723, to which reference is made for a more particular description.

SUBJECT to those certain easements, restrictions and other matters as depicted on the above-referenced subdivision plan.

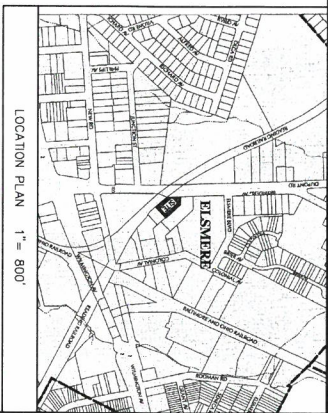
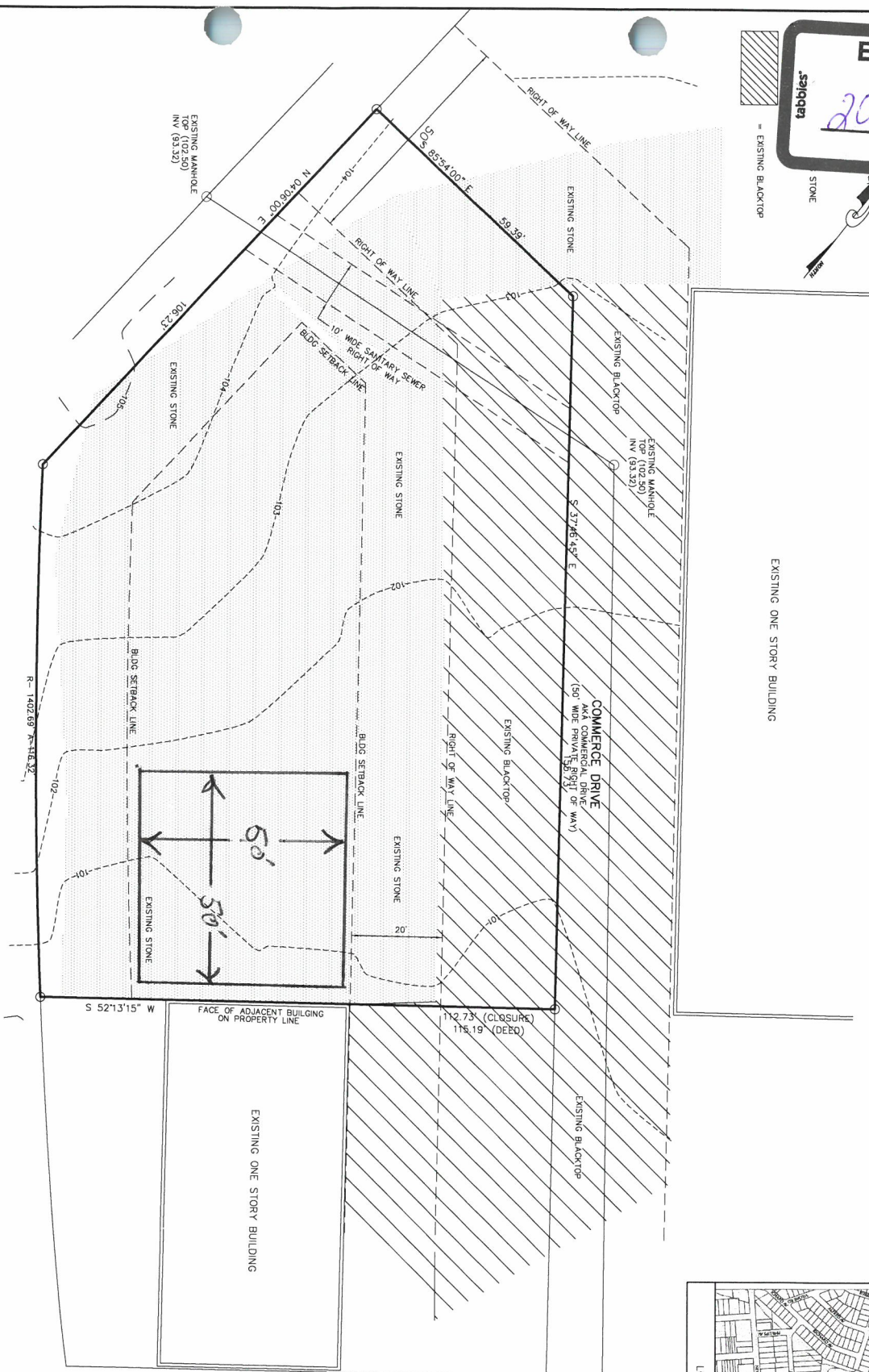
BEING the same lands and premises which were conveyed unto P.D. Holding, LLC by deed of Michael W. Fogarty dated June 19, 1996, and recorded in the Office of the Recorder of Deeds in and for New Castle County, Delaware, on June 21, 1996, in Deed Book 2121, Page 287.

GRANTEE'S ADDRESS: 307 Commercial Drive
Wilmington, DE 19805

NO TITLE SEARCH OR SURVEY WAS REQUESTED OR PERFORMED.

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 = EXISTING BLACKTOP



NO	DATE	DESCRIPTION	BY

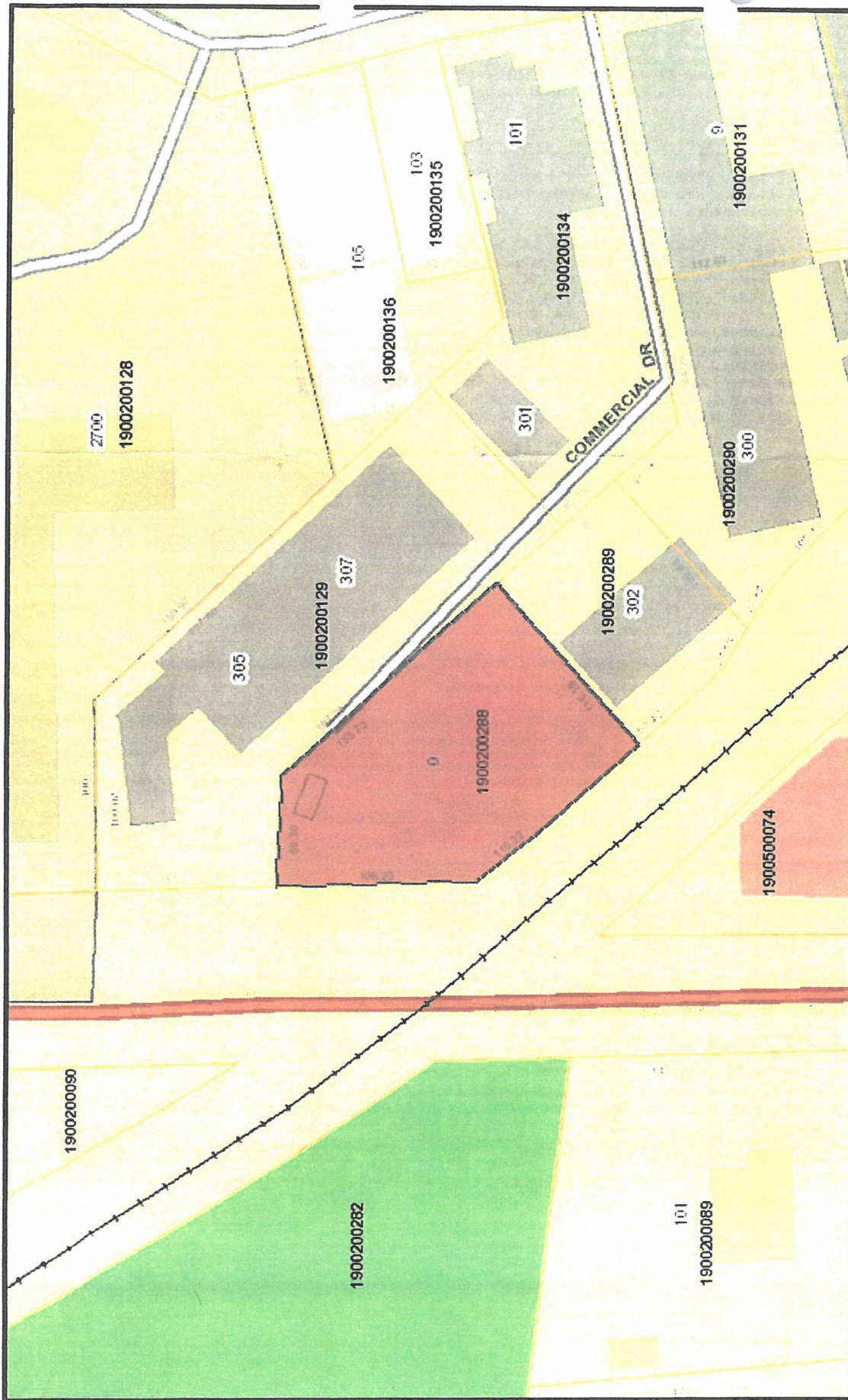
SHEET 1 OF 1

SITE PLAN

LOT 4
FOGARTY SUBDIVISION
 MICROFILM # 12723
 0 COMMERCE STREET

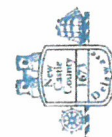
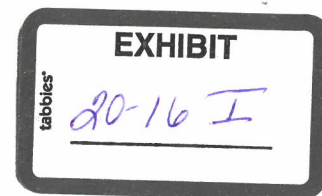
N.C.T.A. PARCEL # 19-0020-288 BLOCK MAP #
 TOWN OF ELSMERE NEW CASTLE COUNTY
 DELAWARE
 SCALE: 1" = 10' FILE NAME: DATE: 08/04/20

HOWARD L. ROBERTSON, INC.
 801 BRANDYWINE BOULEVARD
 WILMINGTON, DELAWARE 19809



0 Commerce St

Author:



New Castle County Delaware GIS: <http://gis.ncde.org>

Disclaimer: For informational purposes only - not to be used as official documentation.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroX, GeoEye, IGN, Aerogrid, IGN, IGA, swisstopo, and the GIS User community

0 Commerce St

Author:



New Castle County Delaware GIS: <http://gis.nccde.org>

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20-16 J

0 0.02

Site Analysis
Petition 20-16

Property Owner: J & V Holdings LLC
Zoning District: GI
Address: 0 Commerce Drive
Primary Use: Land
Parcel No.: 1900-00200-288

LOT COVERAGE CALCULATIONS

Lot Area in Sq. Ft.: 18,730 sq. ft.

Allowable Lot Coverage: 15,920 sq. ft. or 85%

Total Lot Coverage Currently:

❖ Building =	0	Sq. Ft.
❖ Rear Porch =	0	Sq. Ft.
❖ Garage =	0	Sq. Ft.
❖ Impervious Pave	5460 +/-	Sq. Ft.
❖ Rear Patio =	0	Sq. Ft.

Proposed Addition: 2500 sq. ft.

Proposed Lot Coverage Total: 7960 sq. ft. or 42%

Conclusion: The applicant seeks to construct a 50' x 50' building

Required Setbacks: Front: 20' Rear: 20'
Side: 0' Both Sides: 0'

Existing Setbacks: Front: n/a Rear: n/a
Side: n/a Both Sides: n/a

Proposed Setbacks: Front: 31' Rear: 31'
Side: 5' Both Sides: 105' +/-

Conclusion: The proposed setbacks are compliant with Town code.

STATEMENT OF FACT

The existing parcel is legal non-conforming in regard to lot size, the parcel is 18,730 square feet and the required minimum lot size is 87,120 square feet in the GI District.

REQUEST BY THE APPLICANT

The applicant sees to construct a 50' x 50' (2500 square feet) building for industrial use.

ISSUE(S)

The Code of the Town of Elsmere, section 225-9 requires that the Planning Commission review all new construction to ensure harmonious development.

The Town of Elsmere's NPDES permit requires that the Town increase "green space" within the municipality be maintained and increased.

GRANTING OF THE PETITION

Should the Planning Commission of the Town of Elsmere grant Petition 20-16, the following must occur:

1. The Planning Commission shall determine that the proposed structure meets the harmonious development intent of the Town of Elsmere Code 225-9.
2. The Planning Commission shall determine that the proposed development meets the intent of the Towns NPDES permit.
3. The applicant shall be required to provide parking facilities in accordance with the Town of Elsmere code 225-10
4. The applicant shall be required to obtain building permits within 1 year of this approval.

Parcel # 1900200288

Property Address: 0 COMMERCE ST
WILMINGTON, DE 19805-
Subdivision: FOGARTY SUBD
Owner: J & V HOLDINGS LLC COMMERCE STREET SERIES
307 COMMERCIAL DRIVE
Owner Address:
WILMINGTON, DE 19805
Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

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Lot #: 4
Location:
Map Grid: 09603560
Block:
Census Tract: 123.00
Street Type:
Water:
Microfilm #: 012723

Property Class: INDUSTRIAL
Lot Size: 0.43
Lot Depth: 115.20
Lot Frontage: 215.10
Street Finish:

District & Zoning Info**Districts**

- **FIRE/RESCUE - ELSMERE**
- **RED CLAY SCHOOL DIST-TRES**
- TRAFFIC ZONE T084 (YR2000)
- NORTH OF C&D CANAL
- COUNCIL 1 - KENNETH R WOODS
- ADD REQ PER SEC 10.3.4.4 DSSR
- SEWER DISTRICT NORTHERN-ASMT
- PLANNING 8 - LOWER CHRISTINA
- DE SEN 07-ANTHONY DELCOLLO
- DE REP 13-JOHN L MITCHELL JR

Zoning

- 19GI - GENERAL INDUSTRY

Deed History

Grantee(s)	Deed	Multi?	Sale Date	Sale Amount
PANETROL INC	Y82 684	Y	9/1/1969	\$49,000.00
FOGARTY MICHAEL W	2098 201	Y	5/7/1996	\$233,000.00
P D HOLDING LLC	2121 287	N	6/19/1996	\$64,400.00
RUSHIE T JEFFREY & PETER J JR	20190114 0003376	N	12/28/2018	\$10.00
RUSHIE JEFFREY T	20190114 0003379	N	12/29/2018	\$10.00
RUSHIE JEFFREY T & VICTORIA E	20190114 0003382	N	12/30/2018	\$10.00
J & V HOLDINGS LLC COMMERCE STREET SERIES	20190114 0003385	N	12/31/2018	\$10.00

Tax/Assessment Info**Assessment**

Land: 18700
Structure: 0
Homesite: 0
Total: 18700
County Taxable: 18700
School Taxable: 18700

Tax Bills as of 11/13/2020 3:01:35 AM

Tax Year	County			School		
	Principal Due	Penalty Due	Amt Paid	Principal Due	Penalty Due	Amt Paid
2010A	\$0.00	\$0.00	\$62.96	\$0.00	\$0.00	\$341.09
2011A	\$0.00	\$0.00	\$64.10	\$0.00	\$0.00	\$337.16
2012A	\$0.00	\$0.00	\$64.28	\$0.00	\$0.00	\$333.23
2013A	\$0.00	\$0.00	\$63.91	\$0.00	\$0.00	\$353.62
2014A	\$0.00	\$0.00	\$64.16	\$0.00	\$0.00	\$359.85
2015A	\$0.00	\$0.00	\$63.93	\$0.00	\$0.00	\$400.00
2016A	\$0.00	\$0.00	\$63.77	\$0.00	\$0.00	\$436.14
2017A	\$0.00	\$0.00	\$64.10	\$0.00	\$0.00	\$462.70
2018A	\$0.00	\$0.00	\$68.64	\$0.00	\$0.00	\$460.21
2019A	\$0.00	\$0.00	\$63.56	\$0.00	\$0.00	\$463.58
2020A	\$0.00	\$0.00	\$59.22	\$0.00	\$0.00	\$463.58

Tax Payments as of 11/13/2020 3:01:35 AM

Date Paid	Amt Paid
9/29/2010	\$404.05
9/28/2011	\$401.26
9/28/2012	\$397.52
9/27/2013	\$417.54
9/29/2014	\$424.01

11/13/2020

New Castle County, DE - Parcel # 1900200288

9/29/2015
9/27/2016
9/28/2017
9/27/2018
9/10/2019
9/29/2020

County Balance Due: \$0.00

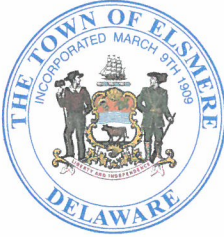
School Balance Due: \$0.00

These amounts are valid through the last day of the month. For accounts with delinquent balances, statutory penalty will accrue on the first day of next month.

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The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

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20-16 0

Planning Commission Hearing

December 1, 2020

6:30 p.m.

Mayor

Eric Thompson

1st District Councilwoman

Marianne Skipski

2nd District Councilwoman

Sally Jensen

3rd District Councilman

Robert Kacperski

4th District Councilman

Charles McKewen

5th District Councilwoman
President Pro-Tempore

Joann I. Personti

6th District Councilman
Secretary of Council

Brian Hurst

Town Treasurer

Paul Chalfant

City Solicitor

James McMackin

Petition #20-16

Tax Parcel I.D. # 19-00200-288

Zoning: GI

J & V Holdings, LLC

0 Commerce Drive

The applicant seeks to construct a 50' x 50' building. The Planning Commission will review Petition 20-16 and make a recommendation to the Board of Adjustment.

Comments (if any): meets the harmonious intent of the town.

Motion: Approve 5 - 2 absent

Vote:

1st John Jaremchuk 2nd Mary Steppi

For

☒

☒

☒

☒

☒

☐

Against

☐ Charles Lindell

☐ Robert Anderson ABSENT

☐ Jose Matthews

☐ Mary Steppi

☐ John Jaremchuk Jr.

☐ Scott Shelton

☐ John Pockets Jr. ABSENT

Reason given: _____

Reason given: _____

Reason given: _____

Reason given: _____

Reason given: _____

Reason given: _____

Reason given: _____

Recommend Approval

Recommend Denial

Restrictions/Requirements (if any):

Secretary: _____ Date: _____

Chairman: Charles Lindell Date: 12-8-2020

A Council – Manager Municipality
Located on the Net at townofelsmere.com