

TOWN OF DOVER

ZONING BOARD OF ADJUSTMENT

- ☐ John R. Frister
- ☐ Paul Schmolkie
- ☐ Richard Fox
- ☐ Larry Davis
- ☐ Gilbert Roman
- ☐ Antonio Acosta
- ☐ Austin Nieves

TOWN OF DOVER

Mailing Address
37 North Sussex Street
Dover, New Jersey 07801

Office Location
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Telephone: 973-366-2200 (Ext. 2141)
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- ☐ TC McCourt (Alternate I)
- ☐ Vacant (Alternate II)
- ☐ Glenn C. Kienz – Board Attorney
- ☐ Stephen Hoyt – Board Engineer
- ☐ John McDonough – Board Planner
- ☐ Paula Mendelsohn – Board Secretary

Agenda for the Zoning Board of Adjustment Meeting

Thursday, October 02, 2025

REGULAR MEETING

1. Call to Order – Reading of the New Jersey Open Public Meetings Notice.

“This meeting is being held in accordance with the Open Public Meetings Act, also known as the Sunshine Law, N.J.S.A. 10:4-6. Notice of the 2025 meeting schedule was sent to the Daily Record and published in the Daily Record on February 3, 2025. The annual meeting list was also posted on the municipal bulletin board in Town Hall, on the Town of Dover website and submitted to the Town Clerk. As a reminder there is no smoking in this building; there are 2 exits in case of emergency and this meeting is not streaming on Facebook live. However, the audio will be posted in a timely manner to the town website.”

2. Roll Call

Name	Present	Absent	Excused
Alternate II - Vacant			
Commissioner T.C. McCourt			
Commissioner Austin Nieves			
Commissioner Antonio Acosta			
Commissioner Gilbert Roman			
Commissioner Larry Davis			
Commissioner Richard Fox			
Vice Chairman Paul Schmolke			
Chairman John R. Frister			

3. Pledge of Allegiance

4. Approval of Minutes – September 4, 2025

5. Resolutions

- a. **Z25-04** – 158 W Clinton St. – Block 703 Lot 8: Dover Business park

6. Applications

- **Z24-04 - 203 & 207 East Blackwell Street - Block 1904 – Lot 14 & 15** The applicant has filed an appeal of decision regarding use of property.
- **Z25-02 - 203 & 207 East Blackwell Street - Block 1904 – Lot 14 & 15** The subject Property identified as Block 1904, Lot 14 & 15 each have an existing 2 ½ story dwelling, with the rear portion occupied by Cipollini Roofing. According to the October 25, 1991 Planning Board Meeting Minutes, a motion was passed permitting a roofing business in the rear of lot 14. However, lot 15 was never approved by such use. Following a Notice of Violation issued by the Town of Dover Code Enforcement Office, the Applicant has submitted an application to formally recognize the roofing business on Lot 14.
- **Z25-05 – 226 E McFarlan Street - Block 1318 - Lot 9** The subject property currently consists of an asphalt parking lot with a concrete pad that contains broken cinder blocks within the C-2 General Commercial District. The Applicant proposes to redevelop the site into a Used Car Dealership containing a 1-story office building with a 480 SF footprint. Site improvements consist of on-site parking, drainage, landscaping, and signage. The application is exempt from Morris County Planning Board review.
- **Z25-03 – 13 Richboynton Rd.- Block 803 – Lot 2** The applicant is proposing to construct a 47'x79' utility storage building and associated improvements, including 4' high chain link fence and retaining wall, concrete pavement and bollards. The subject property lies within the IND Industrial District.

7. Open to the Public

8. Old Business - None

9. New Business - None

10. Adjournment

Next meeting is November 6, 2025 @ 7:00PM

TOWN OF DOVER BOARD OF ADJUSTMENT

- John R. Frister - Chairman
- Paul Schmolke _ Vice Chairman
- Richard Fox
- Larry Davis
- Gilbert Roman
- Antonio Acosta
- Austin Nieves

COUNTY OF MORRIS
37 NORTH SUSSEX STREET
DOVER, NEW JERSEY 07801
Office location 100 Princeton Ave
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Telephone: 973-366-2200 (Ext. 2141)

- T.C. McCourt (Alternate I)
- Vacant (Alternate II)
- Glenn C. Kienz Esq. – Board Attorney
- Paula Mendelsohn - Board Secretary
- Stephen Hoyt PE- Board Engineer
- John McDounough- Board Planner

MINUTES September 4, 2025

CALL TO ORDER:

Chairman Frister called the meeting to order at 7:00 PM.

ADEQUATE NOTICE OF MEETING:

Was read by Ms. Paula Mendelsohn.

PLEDGE OF ALLEGIANCE:

Was recited by all present.

ROLL CALL

PRESENT: Commissioners McCourt, Acosta, Roman, Vice Chairman Schmolke, and Chairman Frister

ALSO PRESENT: Glenn Kienz Esq., Board Attorney, Stephen Hoyt and John DeMartinis, Board Engineers, Matt Flynn, representing the Board Planner and Paula Mendelsohn, Board Secretary

ABSENT: Commissioner Davis and Fox.

EXCUSED: Commissioner Nieves.

MINUTES: The minutes from the April 3, 2025 meeting were approved with a vote of 4 in favor, 0 opposed, and 1 abstention.

Tc McCourt Added that Per Robert's Rules, only commissioners who were present may be asked to vote. No votes are to be recorded from individuals who were absent. Therefore, only those listed as present should be included in the vote.

RESOLUTION:

Z25-01 29 Perry Street A motion to approve the resolution was made by **Chairman Frister** and seconded by **Commissioner McCourt**. The motion was approved with 3 votes in favor and 3 abstentions.

CASES

Z25-03- 13 Richboyton Road, Block 803 Lot 2 The applicant is proposing to construct a 47'x79' utility storage building and associated improvements, including 4' high chain link fence and retaining wall, concrete pavement and bollards. The subject property lies within the IND Industrial District.

The applicant, JCP & Allen, was represented by Russell Anderson, Esq., of Bertone Pacini, with Aaron Dickerson, Area Manager for JCP & Allen, providing testimony. The Board also heard from Dennis Keenan, P.E., and planner Wayne Ingram, both sworn in for testimony. The applicant proposes a 47' by 79' utility storage building with associated improvements, including a four-foot-high chain link fence,

retaining wall, concrete pavement, and bollards. The property is located primarily in the Industrial District, with a minor portion in the R2 zone, which does not affect the proposed improvements. The site is currently used as a lineman's yard and offices. The application seeks C variances for minimum frontage (required 200 feet, existing 68.7 feet) and side yard setback (required 30 feet, existing 27.8 feet), as well as a D2 variance for the pre-existing non-conforming use. Aaron Dickerson described the project, noting that equipment currently stored outdoors will be relocated inside the building to protect assets and minimize environmental runoff. The building is open-front steel with siding, a slightly sloped roof with gutter, and is consistent with existing site structures. Construction will occur in two phases, beginning with excavation and site cleanup, followed by building erection, with an estimated completion between the end of 2026 and mid-2027. No additional traffic, personnel, signage, or major site alterations are anticipated. Board members asked questions regarding site conditions, including the concrete pad, current storage practices, and lack of landscaping.

During discussion, **Commissioner McCourt** disclosed a side conversation that occurred between other Board members regarding a potential conflict of interest, as the **Vice Chairman Schmolke** is a former JCP&L employee receiving a pension. After consulting with the Board attorney, it was determined that recusal would be necessary to avoid any appearance of a conflict; however, such recusal would temporarily deprive the Board of a quorum.

Consequently, a motion was made by **Commissioner McCourt**, seconded by **Commissioner Acosta**, to table the application to the next meeting, scheduled for October 2, 2025, with a carry notice to be issued for the public. Members of the public present were informed of the new meeting date.

Approved 5-0.

Z25-04 – 158 W. Clinton St. – Block 703 – Lot 8 The applicant, Dover Business Park LLC, is seeking a Section 68 Courtesy Review of the existing use of the subject property at Block 703 Lot 8. According to the letter prepared by Calli Law LLC, a portion of the property is currently utilized as a residential dwelling, which is not permitted within this district. The Applicant has been issued a violation by the Town of Dover dated March 28, 2025, under Complaint No. 1409 SC 2025 0033293/94 denoting “no certificate of compliance for an illegal dwelling on Unit C.” There are no improvements proposed on-site. The subject property lies within the IND Industrial District.

The applicant's counsel Lawrence Calli, presented background on the property, noting that it has contained a caretaker's residence since at least the 1960s, predating the current ownership. The caretaker has historically lived on-site to maintain the property and provide overnight security.

Current caretaker **Eric Scott** testified under oath that he resides in the unit, maintains the property, performs snow removal, light landscaping, and serves as an on-call watchman. He confirmed that the apartment is a studio unit on the second floor, occupied by one person with one vehicle, and that refuse and recycling are placed in existing dumpsters on the property. He also stated that no incidents have occurred during his tenancy and that his understanding is that the caretaker's residence has been continuously occupied prior to his tenancy.

Counsel submitted a letter from the prior owners, the **Harris family** (owners from 1937–2011), confirming that a caretaker has always lived on the property. The letter was marked as **Exhibit A-1**.

Licensed Professional Planner **Steven Smith** testified that records in the applicant's archives date back to 1968, confirming continuous use of the caretaker's apartment. He identified the location of the unit

as the northeast corner of the second floor of the main building, above the record store, which was documented on a 1998 site plan marked as **Exhibit A-2**.

Mr. Smith confirmed that he is a licensed professional planner and landscape architect, and that he has been accepted as an expert before this Board in prior matters. He testified that the unit has historically functioned as a caretaker's residence and remains consistent with that use today.

Board members discussed whether the caretaker's residence should be recognized as a legal, conforming unit. It was noted that if approved, the apartment must meet all applicable local and state code requirements, including safety standards such as smoke detectors and fire extinguishers.

The applicant, through counsel, emphasized that the request was not to create a separate rental dwelling, but to continue the historic use of a caretaker's residence tied to the property's maintenance and security.

Public Hearing – Caretaker's Residence

Chairman Frister opened the hearing to the public. **Irene Worth**, an adjoining property owner within 200 feet, was sworn in and asked several questions.

Ms. Worth inquired whether caretaker **Eric Scott's** role was full-time security. Counsel clarified that Mr. Scott is a full-time employee of the property owner, responsible for maintenance, snow removal, and overnight watch, but that his position is not solely security.

Ms. Worth also asked whether additional residents were permitted in the unit. Counsel responded that while it is a studio unit and intended for a single occupant, zoning does not prohibit a spouse or partner from residing with the caretaker.

Ms. Worth expressed concern about potential health risks from living above an auto body shop and noted she would not want children living in the unit. She also stated concern that approving this application might lead to the property being converted into multiple apartments. Counsel and board members clarified that the request was limited to the continuation of a single caretaker's residence, and that further residential use would not be permitted in the industrial zone.

Board members followed up to confirm on the record:

- Mr. Scott testified that this is his only job.
- He confirmed no other residents live in the unit.
- He acknowledged that while he may have visitors, the unit is a single-occupant studio.

Commissioner Acosta emphasized the need to ensure that the approval did not authorize overcrowding or the conversion of additional apartments. Counsel reiterated that the request was limited to recognizing a long-standing, single caretaker's residence that predates current zoning, with a continuous history dating back over 60 years.

After discussion, counsel requested approval under **Section 68**, recognizing the residence as a preexisting, nonconforming use, rather than proceeding by use variance. This recognition would allow the caretaker's residence to continue under the condition that the unit comply with all local and state code requirements and remain tied to property maintenance and oversight.

Motion: Commissioner McCourt moved to approve the application under Section 68, with the condition that the caretaker's unit remain subject to municipal inspection and compliance with applicable safety codes. The motion was seconded by Commissioner Acosta. **Approved 5-0.**

Z25-05 – 226 E McFarlan Street - Block 1318 - Lot 9 The subject property currently consists of an asphalt parking lot with a concrete pad that contains broken cinder blocks within the C-2 General Commercial District. The Applicant proposes to redevelop the site into a Used Car Dealership containing a 1-story office building with a 480 SF footprint. Site improvements consist of on-site parking, drainage, landscaping, and signage. The application is exempt from Morris County Planning Board review.

Applicant's Counsel, **John J Cardille**, appeared on behalf of the property owner. He explained that the property has historically been used for auto sales since approximately 1965. Around 2008, the property was abandoned and fell into disrepair. The applicant now seeks to rehabilitate the site and reestablish the former use. Mr. Hard stated that variances are required due to the existing nonconforming lot dimensions, including lot size and frontage, as well as coverage for paving associated with vehicle display. He noted that a drainage plan has been submitted and that the applicant will also revise the signage plan in accordance with the DOT review letter and municipal ordinance.

The applicant's architect, Emmanuel Kavrakis, provided his professional background and was sworn in to testify on behalf of his client. He testified that the site is approximately 7,000 square feet, fully impervious, and previously contained a single-family residence. The proposal includes construction of a small administrative building, a few hundred square feet in size, along with repaving of the lot, new striping, and installation of fencing along the residential border. No net increase in impervious coverage is proposed, as dry wells will address stormwater management. Materials for the building will include stone veneer and fiber-cement siding. The plans also include a freestanding sign, which will be revised for compliance, and building-mounted lighting. No tree removal is proposed on the site, but limited landscaping will be added along the sidewalk.

The Board and professionals asked questions regarding several aspects of the application. With respect to lighting, the applicant confirmed that only building-mounted fixtures are proposed, designed to prevent glare onto neighboring properties, and that a photometric analysis has been completed. Regarding vehicle deliveries, counsel noted that the applicant operates larger facilities elsewhere, and this site will not accommodate large car carriers. Deliveries will be managed off-site. On the issue of on-site repairs, the applicant confirmed that the use is strictly for vehicle sales and that no oil changes, repairs, or maintenance will take place, aside from minor incidental tasks such as tire replacement. Board members also raised concerns regarding traffic on Route 46, nearby schools, and pedestrian safety. Counsel responded that the proposed use is consistent with the historic operation of the site.

The Board further requested clarification regarding the landscaping plan, including the species of trees and plantings to be installed, and emphasized the importance of ongoing maintenance. Commissioners expressed general support for redevelopment of the long-vacant site but stressed the need for safeguards regarding lighting, signage, deliveries, and landscaping. It was noted that the nature of the business may differ from that of a traditional dealership, as the applicant expects to conduct many sales through internet-based transactions, with vehicles leaving the site quickly rather than remaining in long-term inventory.

Dover Board of Adjustment Regular Meeting Minutes 9/4/2025

A motion to carry the application was made by Vice Chair Schmolke and Seconded by Chairman Frister.
Approved 5-0.

NEW BUSINESS: None

OLD BUSINESS: None

PUBLIC COMMENT: None

Meeting adjourned at 8:45 PM

Respectfully submitted,

Paula Mendelsohn
Board of Adjustment Secretary

Dated: _____

RESOLUTION
Town of Dover
Board of Adjustment
In the Matter of Dover Business Park, LLC
Application Number Z25-04
Decided on September 4, 2025
Memorialized on October 2, 2025
Certification of a Preexisting Use and/or Use Variance Approval

WHEREAS, Dover Business Park, LLC (hereinafter the "Applicant") has made application to the Dover Board of Adjustment for certification of a preexisting use and/or use variance approval for property known as Block 703, Lot 8, as shown on the Tax Map of the Town of Dover, located at 158 E Clinton Street, in the Industrial Zone (hereinafter the "Subject Property"); and,

WHEREAS, a public hearing was held on September 4, 2025, after the Board determined it had jurisdiction; and,

WHEREAS, the Applicant was represented by Lawrence A. Calli, Esq.

NOW THEREFORE, the Board of Adjustment makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

The application before the Board is a request for certification of a preexisting use or, alternatively, use variance relief related to a residential dwelling unit on the Subject Property.

The application presented to the Board by Mr. Calli was in the form of seeking one of two (2) kinds of relief so as to be able to address a violation notice received from the Town of Dover dated March 28, 2025 regarding the existing use of the property which asserted that "No Certificate of Compliance for an illegal dwelling on Unit C." had ever been received. As a witness Mr. Calli presented Eric Scott, the person residing on the property along with additional supplemental information including a letter dated 4/9/2025 from Peter Harris whose family owned the parcel from 1937 to 2011.

Mr. Calli indicated that there was also a Lease dated 2015 confirming the current tenant at that time and the use of this approximately 800+/- square foot apartment as a night watchman living quarters. He also asserted that there had been no cessation of the use nor expansion of that use during that time period. The use was affirmed through the Board taking judicial notice of the activities in the letter prepared by Peter Harris, former owner. It was Mr. Calli's position that there was no need to obtain a use variance for the property since this had been an ongoing use. He also noted that no development was contemplated but that in the recent past the Applicant had filed for land use approvals which were granted for additional uses on the property. These included a vintage record store. He also submitted plans prepared by Steven Smith depicting the various uses on the parcel. Mr. Calli went on to state that if necessary they were in a position to place planning testimony on the record which justified the use pursuant to N.J.S.A. 40:55D-70d.

A report dated May 30, 2025 prepared by Stephen Hoyt was reviewed at the hearing. Mr. Hoyt in his report stated he found no record for this caretaker use on previous applications. However, it appeared there was adequate parking and other items necessary for it to be a continuing use.

The meeting was opened to the public at which time Irene Worth appeared and asked general questions about the proposed use and whether the owners would be able to place an entire family in this building. The Applicant indicated this was not their intent since it was merely to provide a living space for a caretaker. There were no other members of the public present expressing an interest in this application.

NOW THEREFORE, the Board of Adjustment makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for permission to continue a preexisting caretaker's facility on the Subject Property pursuant to the Board's authority of N.J.S.A. 40:55D-68. This section of the Municipal Land Use Law allows Zoning Boards to hear evidence and determine whether uses taking place on a property either were previously approved or pre-dated zoning requirements.

In reviewing the application, plans and testimony, the Board concludes that in this instance this use clearly has been present on the site since at least some time before 1970. While there was direct testimony, the Board finds as a matter of fact and law that not only the letter sent by Mr. Harris but also the very nature of the site and uses which have been in existence, clearly point to the use of this modest 800+/- square foot residential structure to have existed. For the facility associated with this caretaker business to not have provided for some kind of additional security given the size of the Dover Business Park, would have been surprising. The Board concludes that in this instance given the limited circumstances, that it has been taking place and, therefore, should be found to be a valid preexisting, nonconforming use on the site. In rendering this opinion, however, the Board notes that this is not intended for use by a family although, that it not say that should the caretaker now or in the future have a live-in partner, that also would be appropriate and permitted. It would not be an appropriate use, however, for any individual with small children since this an industrial site.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment that the application of Dover Business Park, LLC for Block 703, Lot 8, as shown on the Tax Map of the Town of Dover, located at 158 E Clinton Street, in the Industrial Zone, to allow the residential use for a caretaker be permitted pursuant to N.J.S.A. 40:55D-68 subject to the following terms and conditions:

1. This apartment shall only be occupied by a caretaker and his or her companion. No children shall be permitted to reside within the residential unit.
2. Any cessation of use by a caretaker shall result in an abandonment of that use providing said cessation is for a period greater than 12 months.
3. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
4. Certificate that taxes are paid to date of approval.
5. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval
6. Subject to all other applicable rules, regulations, ordinances and statutes of the Town of Dover, County of Morris, State of New Jersey, or any other jurisdiction.

The undersigned secretary certifies the within resolution was adopted by this Board on September 4, 2025, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on October 2, 2025.

J. Ron Frister, Chairman

The vote on the Resolution was as follows:

FOR:

AGAINST:

ABSTAIN:

Board Member(s) Eligible to Vote:

I certify that the above Resolution is a true copy of a Resolution adopted by the Board of Adjustment on _____, 202__.

Paula Mendelsohn, Secretary

Dated:

Prepared by: Glenn C. Kienz, Esq.