



## DEPARTMENT OF PLANNING SERVICES

### NOTICE OF DECISION

**APPLICATION:** A-25-04

**APPLICANT:** David & Doreen Polanco  
258 Derbywood Cir  
Dover, DE 19904

**OWNER:** P & I Properties, LLC  
258 Derbywood Cir  
Dover, DE 19904

**PROPERTY LOCATION:** 9802 S Dupont Hwy  
Felton, DE 19943

**DATE OF PUBLIC HEARING  
& DECISION:** February 20, 2025

**MEMBERS PRESENT:** Brian Cusick, Chairperson  
Morgan Hudson, Vice-Chairperson  
Joan Denney  
Temple Carter  
Brauncy Jenkins  
George Gallo, Jr.

### NATURE OF REQUEST:

**A-25-04 David & Doreen Polanco (Owner: P&I Properties, LLC)** seek a variance from the requirement that off-street parking and loading areas be located a minimum of 15' from the front property line to enable the submission of a site plan (§171-6.B.(1) of the **Kent County Code**). The property is located on the west side of S. Dupont Hwy., approximately 0.37 mi. south of Plymouth Rd., north of Felton. Levy Court District: 6<sup>th</sup>. Zoning District: BG. **Tax Map No. 8-00-129.01-01-72.00-000**

The applicants are requesting a variance from the required parking setback of 15' from the front property line to allow for a front parking setback of 12'.

### SUMMARY OF EVIDENCE

1. The subject site is 0.5 ± ac and is currently improved with an existing building.
2. Mr. Kevin Minnich, Minnich Engineering, spoke in favor of the application.
3. Mr. Minnich explained that he met with DelDOT about having a separate entrance for the subject parcel and DelDOT suggested a cross access with one entrance for the subject

parcel and the parcel to the north. He added that DelDOT did not mention that the parking shall be a minimum of 15' from the property line during the pre-application meeting.

4. Mr. Minnich detailed that the applicants are seeking to renovate and utilize the existing building. Fire Marshall requires the building to be 10' from parking, the parking stalls are required to be 18' in length, the drive aisle is required to be 24', so that only leaves 12' to the front property line.
5. Mr. Minnich explained that they can ask for a deviation from DelDOT's requirement that parking shall be a minimum of 45' from the right edge of the right thru lane to 42' from the right edge of the thru lane.
6. Mr. Minnich stated that if DelDOT denies their request then they will have to come back to the Board of Adjustment to request a variance from the required 24' wide drive aisle to be 21'. He added that they are trying to improve the existing site to have three offices with parking that is necessary for the uses.
7. Mr. Minnich detailed that the Fire Marshall requires buildings over 1,500 sq. ft. to have 10' from the building to the parking and the existing building is approximately 1,800 sq. ft.
8. Mr. Minnich added that the parking is getting better and will be further away from the southern property line than the parking is currently.

### FINDINGS OF FACT & CONCLUSIONS OF LAW

Analysis of the four factors set forth in Board of Adjustment of New Castle County v. Kwik-Check Realty, Inc., 389 A.2d 1289, 1291 (Del. 1978), supports the **APPROVAL** of the requested variance.

- (1) **The nature of the zone where the property lies:** As shown on Exhibit A, the subject site is zoned BG (General Business). All adjacent parcels are zoned BG. Parking is a normal improvement in the BG zoning district, provided it meets applicable setbacks and impervious coverage.
- (2) **The character and uses of the immediate vicinity:** The character of the surrounding area is commercial, residential, and vacant. The parcel to the south is utilized residentially and the parcel to the north is utilized commercially. The parcels on the east side of S. Dupont Hwy. are commercial and residential in nature.
- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** The removal of this requirement will not seriously affect neighboring properties. The parked vehicles will not be getting any closer to the neighboring properties than the existing vehicle parking. Cars will be parked 36' from the front property line, which will not block the line of site for entrance and egress of neighboring properties.
- (4) **Whether failure to remove the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner's efforts to make**


**normal improvements to the property:** Failure to remove the restriction to allow parking to go 12' from the front property line would create unnecessary hardship for the property owners in relation to making normal improvements to the property. The applicants are seeking to utilize the existing building that is 64' from the front property line. Per Kent County Code, two-way drive aisles are required to be 24' wide and parking spaces are required to be 18' in length. Delaware State Fire Marshal requires parking to be 10' from the exterior wall of the building. The proposed 24' wide drive aisle is approximately 42' from the edge of the right thru lane and the vehicle parking as proposed will be 66' from the edge of the right thru lane.

**DECISION:** On a motion made by Mrs. Denney and seconded by Mrs. Hudson, the Board of Adjustment voted 6 in favor of the motion to grant **APPROVAL** of application A-25-04, thus granting a variance from the required parking setback of 15' from the front property line to allow for a front parking setback of 12', as shown on revised Exhibit B, attached hereto. The support of this motion was based on staff recommendation, unnecessary hardship, failure to remove the restriction would create unnecessary hardship for the applicants to improve the property, the building exists, and they are not asking for any more than they need.

**NOTES:**

1. The applicants are advised that any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Superior Court in and for Kent County a petition setting forth that such decision is illegal in whole or in part, specifying the grounds for the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board (9 Del. C. § 4918).
2. The applicants are advised that, should the request be granted, a site plan and a Building Permit for renovations shall be obtained prior to the commencement of construction and renovation. For more information, contact the Planning Department at (302)744-2471 and/or Permitting Department at (302)744-2451 between 8:00a.m. and 5:00p.m.
3. This variance will expire after **ONE YEAR** if a permit has not been submitted to the Division of Planning.

**KENT COUNTY BOARD OF ADJUSTMENT**

  
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Brian Cusick, Chairperson

**DECISION FILED:** 3/21, 2025

# Exhibit B

Application: A-25-04  
Polanco (P&I Properties, LLC)

Variance from the requirement that off-street parking and loading areas be located a minimum of 15' from the front property line to enable the submission of a site plan

