



The Town of Elsmere
11 Poplar Avenue, Elsmere, Delaware 19805
Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT
tabbles
19-06 A

Application for Hearing

- Board of Adjustment
- Planning Commission

Petition # 19-004, 00-624 Filing Fee: _____ Date Received 7/15/19 Received by: SA

Subject Property: _____ 908 Baltimore Ave

Property is: Residential Commercial

Tax Parcel # _____ Zoning District: _____

Applicant name: Sarah Margaret Clark

Address: 908 Baltimore Ave Telephone # 302-383-6376

City: Wilmington State: DE Zip Code: 19805

Application for Zoning Variance Related to: Holistic Physical Therapy, LLC

- Front yard setback
- Rear yard setback
- Side yard setback
- Lot Area
- Lot Coverage
- Fencing
- Parking requirements
- Signage

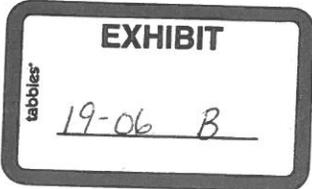
Application for Special Exception Use Permit for the following use: _____

Holistic Physical Therapy in residential area

Application for Appeal of an Administrative decision: _____

By: _____ Date: _____

For the following reasons: _____



Application for relief other than above: _____

State reasons for this request: _____

I want to have my business, Holistic Physical Therapy, in my home, which is zone: _____

Has a previous application for this property been filed with the Town? Yes No

If yes, Petition # _____

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

Legal owner information:

Name: N/A

Address: _____ Telephone # _____

City: _____ State: _____ Zip Code: _____

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: Sarah Clark Date: 7/15/19

Legal Owner's Signature: _____ Date: _____

Name of person representing applicant (if applicable):

N/A

Address: _____ Telephone # _____

City: _____ State: _____ Zip Code: _____

I, **Sarah Margaret Clark**, as owner of the property listed on this application, authorize the above named representative to act on my behalf during any proceedings pertaining to this application.

Legal Owner Signature

Date

Subscribed and sworn to before me on the following date:

Notary Public Signature

Date

In addition to the persons listed above please send copies of all correspondence to:

Name: **N/A** _____

Address: _____ Telephone # _____

City: _____ State: _____ Zip Code: _____

VARIANCE HARDSHIP WORKSHEET

Town of Elsmere Petition Number: _____

Property Owners Name: Sarah Margaret Clark

Person(s) Representing the Property Owner: N/A

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:

There is ample parking; 908 Baltimore Ave has 2 parking spots on G street. My patients will be entering th

through the back.

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

Please explain how this applies:

There is ample parking; 908 Baltimore Ave has 2 parking spots on G street. My patients will enter through the back

- (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:

Because I only see one client at a time,
and I have 2 parking spots on G street,
Holistic Physical Therapy, LLC will not
disrupt the residential area.

- (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:

Because I only see one client at a time,
and I have 2 parking spots on G street, Holistic
Physical Therapy, LLC will not disrupt the residential
area.

- (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:

I do not have plans to expand my business.

- (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:

There will be plenty of parking, and I
see one patient at a time.

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: Sarah Clark

Date: 7/15/19

Signature Code Department Representative: B. Allen

Date: 7/15/19

Site Analysis
Petition 19-06

Property Owner: Sarah Clark
Zoning District: R-2
Address: 908 Baltimore Ave
Primary Use: Residential
Parcel No.: 1900.400.624

LOT COVERAGE CALCULATIONS

Lot Area in Sq. Ft.: 2064 Sq. Ft.
Allowable Lot Coverage: 619 Sq. Ft. or 30%
Total Coverage:

- ❖ Building = 480 Sq. Ft.
- ❖ Front Porch = 25 Sq. Ft.
- ❖ Garage = Sq. Ft.
- ❖ Impervious Pave = 818 Sq. Ft.
- ❖ Rear Patio = Sq. Ft.

Proposed Addition: 0 Sq. Ft.
Proposed Total: 1323 Sq. Ft. or 64%

Conclusion: There are no proposed additions to the subject parcel.

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

Existing Setbacks: Front: 18.8 Rear: 76.5
Side: 0 Both Sides: 0

Proposed Setbacks: Front: 18.8 Rear: 76.5
Side: 0 Both Sides: 0

Conclusion: There are no proposed changes to the existing setbacks.

STATEMENT OF FACT

The subject parcel is legal non-conforming in regard to:

1. The allowable lot coverage for an interior lot town home in the R-2 district is 30%. The subject parcel is currently 64% covered.
2. The required front yard set back for an interior lot town home in the R-2 district is 20 feet, the current front yard setback is 18.8.

REQUEST BY THE APPLICANT

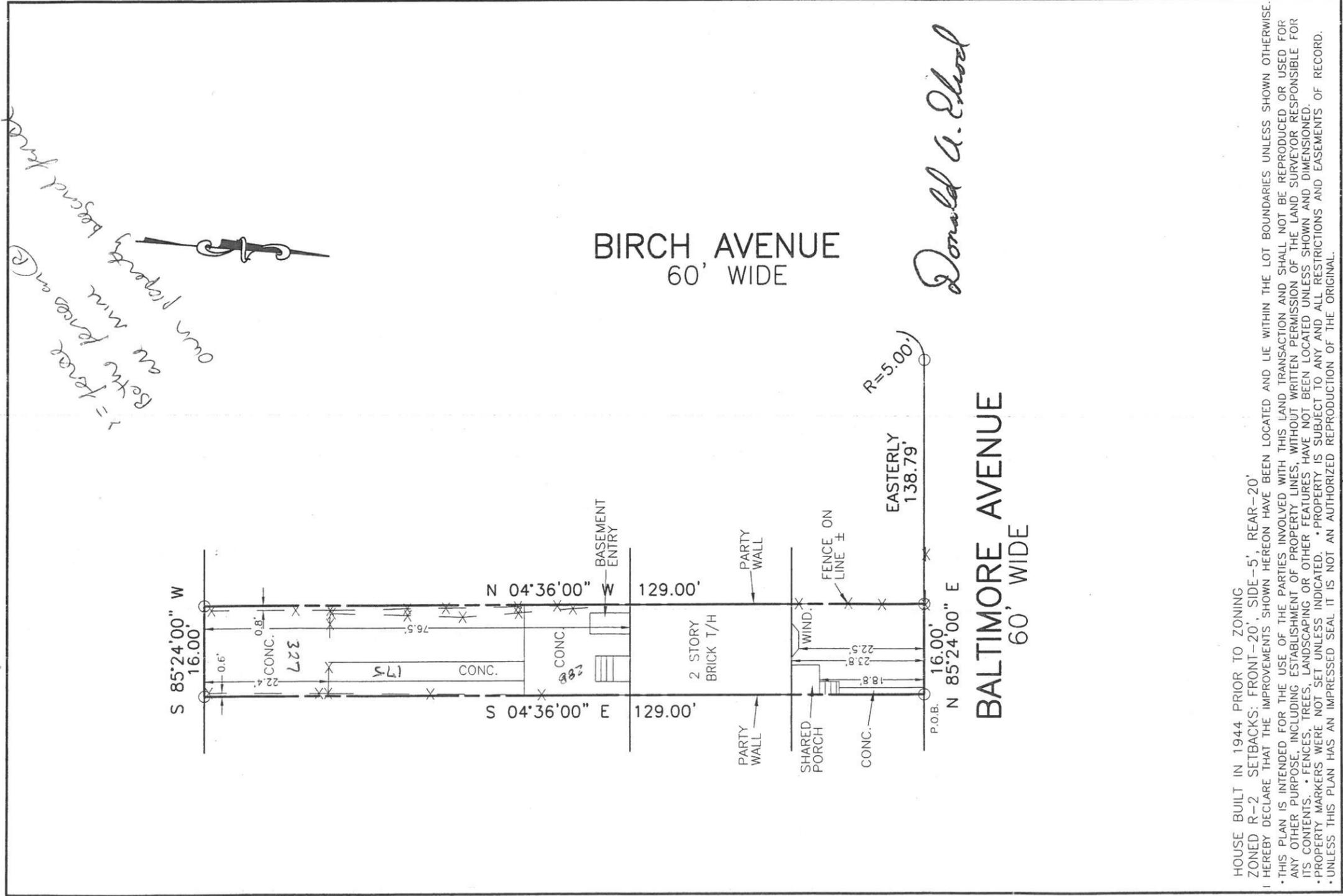
The applicant seeks to operate a home based holistic physical therapy business that brings clients to the property.

ISSUE(S)

In accordance with 225-17 C. (1) and 225-16 C. (9), the requested home occupation which attracts clients to the subject parcel (131-34) can only be permitted as a special exception. The Planning Commission and Board of Adjustment of the Town of Elsmere shall determine that the applicant request complies with Town of Elsmere code 131-34A, A-J.

GRANTING OF THE PETITION

1. The Planning Commission of the Town of Elsmere shall determine that the home occupation meets the harmonious development intent of Town of Elsmere Code 225-9.
2. The Board of Adjustment of the Town of Elsmere shall grant a special exception under 225-17 C. (1) and in accordance with Town of Elsmere Code 225-27.
3. Within 1 year of the Planning Commission and Board of Adjustment approvals, the applicant shall register the home occupation in accordance with Town of Elsmere Code 131-35.



| | | | |
|---|--|---|---------------|
| MORTGAGE INSPECTION PLAN | | PROPERTY TO BE CONVEYED TO: SARAH M. CLARK | |
| 908 BALTIMORE AVENUE LOT 169 | | A.E.S. SURVEYORS | |
| TOWN OF ELSMERE NEW CASTLE COUNTY - DELAWARE TAX PARCEL # 19 004.00 624 | | 3913 OLD CAPITOL TRAIL, WILMINGTON, DE. 19808 Tel: 302-993-1059 Fax: 302-993-1067 | |
| | | SCALE: 1" = 20' | DATE: 5/29/07 |
| | | JOB # 271585 | |
| | | DEED REF: 20030702-0079086 PLAT REF: PR.1 PG.45 | |



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

908 Baltimore Ave

Author:

EXHIBIT

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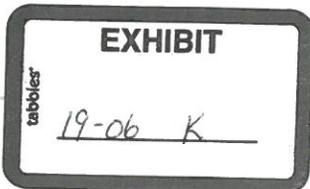


Date: 7/18/2019



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

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



Parcel # 1900400624

Property Address: 908 BALTIMORE AVE
 WILMINGTON, DE 19805-
 Subdivision: ELSMERE MANOR
 Owner: CLARK SARAH M
 908 BALTIMORE AVE
 Owner Address:
 WILMINGTON, DE 19805
 Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

| | |
|---------------------------|-----------------------------|
| Lot #: 169 | Property Class: RESIDENTIAL |
| Location: | Lot Size: 0.05 |
| Map Grid: 09403560 | Lot Depth: 129 |
| Block: X | Lot Frontage: 16 |
| Census Tract: 124.00 | Street Finish: SIDEWALK |
| Street Type: NEIGHBORHOOD | |
| Water: PUBLIC | |
| Microfilm #: 000228 | |

District & Zoning Info

- Districts
- **FIRE/RESCUE - ELSMERE**
 - **RED CLAY SCHOOL DIST-TRES**
 - ELSMERE MANOR - Civic Organization - no contact information available
 - NORTH OF C&D CANAL
 - TRAFFIC ZONE T083 (YR2000)
 - 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
- 19R2 - ONE/TWO FAMILY DWELLING

Deed History

| Grantee(s) | Deed | Multi? | Sale Date | Sale Amount |
|---------------------------|------------------|--------|---------------|--------------|
| MEDICO JOHN PAUL & JOANNE | D93 201 | N | Not Available | \$13,900.00 |
| ANDERSON CHARLES C & | 2255 32 | N | 5/1/1976 | \$26,000.00 |
| KEE STEPHEN J | 20030702 0079086 | N | 3/27/1997 | \$64,900.00 |
| CLARK SARAH M | 20070622 0055969 | N | 6/26/2003 | \$92,000.00 |
| | | | 6/19/2007 | \$147,500.00 |

Tax/Assessment Info

Assessment
 Land: 7300
 Structure: 29200
 Homesite: 0
 Total: 36500
 County Taxable: 36500
 School Taxable: 36500

Tax Bills as of 7/18/2019 3:00:02 AM

| Tax Year | County | | | School | | |
|----------|---------------|-------------|----------|---------------|-------------|----------|
| | Principal Due | Penalty Due | Amt Paid | Principal Due | Penalty Due | Amt Paid |
| 2010A | \$0.00 | \$0.00 | \$122.88 | \$0.00 | \$0.00 | \$665.77 |
| 2011A | \$0.00 | \$0.00 | \$125.11 | \$0.00 | \$0.00 | \$658.10 |
| 2012A | \$0.00 | \$0.00 | \$125.46 | \$0.00 | \$0.00 | \$650.43 |
| 2013A | \$0.00 | \$0.00 | \$124.75 | \$0.00 | \$0.00 | \$690.22 |
| 2014A | \$0.00 | \$0.00 | \$125.22 | \$0.00 | \$0.00 | \$702.37 |
| 2015A | \$0.00 | \$0.00 | \$124.77 | \$0.00 | \$0.00 | \$780.74 |
| 2016A | \$0.00 | \$0.00 | \$124.47 | \$0.00 | \$0.00 | \$851.29 |
| 2017A | \$0.00 | \$0.00 | \$125.12 | \$0.00 | \$0.00 | \$903.12 |
| 2018A | \$0.00 | \$0.00 | \$133.98 | \$0.00 | \$0.00 | \$898.27 |
| 2019A | \$124.07 | \$0.00 | \$0.00 | \$904.84 | \$0.00 | \$0.00 |

Tax Payments as of 7/18/2019 3:00:02 AM

| Date Paid | Amt Paid |
|-----------|----------|
| 9/1/2010 | \$788.65 |
| 9/6/2011 | \$783.21 |
| 9/5/2012 | \$775.89 |
| 9/26/2013 | \$814.97 |
| 9/18/2014 | \$827.59 |
| 9/17/2015 | \$905.51 |

9/27/2016 \$975.76
 9/21/2017 \$1,028.24
 9/25/2018 \$1,032.25

County Balance Due: \$124.07
 School Balance Due: \$904.84

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.

Sewer History as of 7/18/2019 3:00:02 AM

| Tax Year | Principal Due | Penalty Due | Date Paid | Amount Paid |
|----------|---------------|-------------|------------|-------------|
| 2004S5 | \$0.00 | \$0.00 | 7/12/2005 | \$11.82 |
| 2005S1 | \$0.00 | \$0.00 | 7/12/2005 | \$199.92 |
| 2006S1 | \$0.00 | \$0.00 | 11/27/2006 | \$193.82 |
| 2007S1 | \$0.00 | \$0.00 | 6/26/2007 | \$182.37 |
| 2008S1 | \$0.00 | \$0.00 | 2/22/2008 | \$130.14 |
| 2009S1 | \$0.00 | \$0.00 | 2/17/2009 | \$65.07 |
| 2010S1 | \$0.00 | \$0.00 | 3/25/2010 | \$65.03 |
| 2011S1 | \$0.00 | \$0.00 | 3/29/2011 | \$67.64 |
| 2012S1 | \$0.00 | \$0.00 | 2/21/2012 | \$50.00 |
| 2013S1 | \$0.00 | \$0.00 | 2/14/2013 | \$50.00 |
| 2014S1 | \$0.00 | \$0.00 | 5/21/2014 | \$53.50 |
| 2015S1 | \$0.00 | \$0.00 | 4/6/2015 | \$53.00 |
| 2016S1 | \$0.00 | \$0.00 | 2/2/2016 | \$50.00 |
| 2017S1 | \$0.00 | \$0.00 | 2/7/2017 | \$50.00 |
| 2018S1 | \$0.00 | \$0.00 | 2/23/2018 | \$91.85 |
| 2019S1 | \$0.00 | \$0.00 | 3/26/2019 | \$109.04 |

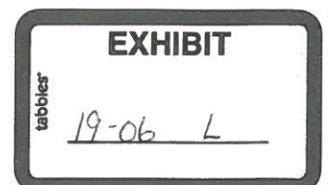
Balance Due: \$0.00

These amounts are valid through the last day of the month. Statutory penalty will accrue on the first day of next month.

Residence Characteristics

Residence 0

| | |
|---------------------------|----------------------------------|
| Building Design: ROW INSD | Residence Class: SFD PLATTED LOT |
| Grade: AVERAGE | Condition: AVERAGE |
| Year Built: 1944 | # Stories: 2 |
| Total Area (sq. ft.): 950 | Main Floor Area: 480 |
| # Rooms: 5 | # Bedrooms: 2 |
| # 1/2 Baths: 0 | # Full Baths: 1 |
| # Fam. Rooms: 0 | # Fixtures: 5 |
| Roof Type: GABLE | Roof Material: ASPHALT |
| Exterior Wall: BRICK | Interior Wall Finish: PLASTER |
| Floor Finish: WOOD | Foundation: CONTINUOUS |
| Garage Capacity: 0 | Basement %: 100% |
| Basement % Finished: | Basement Finish Type: |
| Attic % Finished: | |
| Unfinished %: | Unfinished Area: 0 |
| Heat Type: HOT AIR | Air Conditioning: |
| Remodel Year: 0 | |



EXHIBIT

tabbles

19-06 M

PARCEL NO. 19-004.00-624

Prepared by:

Trident Land Transfer Company
4764 Limestone Road, Suite D-1
Wilmington, DE 19808

Return to:

908 Baltimore Avenue
Wilmington, DE 19805

20070622-0055969
Pages: 3 F: \$44.00
06/22/07 01:22:50 PM
T20070040094
Michael E. Kozikowski
New Castle Recorder DEE

THIS DEED

MADE THIS 19th day June in the year of our LORD 2007.

BETWEEN

STEPHEN J. KEE, of New Castle County and State of Delaware, of the first part,

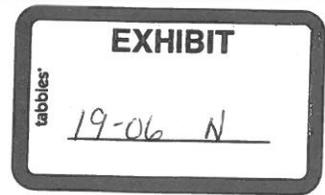
AND

SARAH M. CLARK, of New Castle County and State of Delaware, of the second part

Witnesseth, that the said of the first part, for and in consideration of the sum of ONE HUNDRED FORTY SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$147,500.00), current lawful money of the United States of America, the receipt thereof is hereby acknowledged, does hereby Grant and convey unto the said party(ies) of the second part, Fee Simple,

ALL that certain lot, piece or parcel of land, with the dwelling thereon erected, known as 908 Baltimore Avenue, situate in the Town of Elsmere, New Castle County and State of Delaware, and being Lot No. 169 of the subdivision of Elsmere Manor, Plat Record No. 1, Page 45, and being more particularly bounded and described in accordance with a more recent survey by AES Surveyors, dated May 29, 2007, as follows, to-wit:

BEGINNING at a point on the Southerly side of Baltimore Avenue, at 60 feet wide, distant 138.79 feet, Easterly from the Easterly end of a junction curve of 5 feet radius forming the intersection of the said Southerly side of Baltimore Avenue with the Easterly side of Birch Avenue, at 60 feet wide; thence, South 4 degrees 36 minutes East through the party wall between this house and the house adjoining on the West, 129.00 feet to a point; thence, North 85 degrees 24 minutes East, 16 feet to a point; thence, North 4 degrees 36 minutes West, through the party wall between this house and the house adjoining on the East, 129.00 feet to a point on the said Southerly side of Baltimore Avenue; thence thereby, South 85 degrees 24 minutes West, 16.00 feet to the point and place of Beginning. Be the contents



thereof what they may.

TOGETHER with the exclusive use of a certain garage compound or parking area designated on the above mentioned plan as #169; and the use in common of all walkways and driveways appurtenant to the above described lot of land and parking area and indicated on the said Plan and as fully set forth in a certain Deed recorded in Deed Record R, Volume 43, Page 580, as amended by an Agreement recorded in Deed Record N, Volume 44, Page 23.

SUBJECT, however, to the payment of a proportionate share of the expense of keeping said parking area, walkways, and driveways in good order and repair.

Be the contents thereof what they may.

SUBJECT TO RESTRICTIONS, easements and reservations as set forth in Deed Record R, Volume 43, Page 580 as amended in Deed Record N, Volume 44, Page 23.

SUBJECT TO WATER AGREEMENT as set forth in Deed Record X, Volume 43, Page 333.

SUBJECT TO UTILITY AGREEMENT as set forth in Deed Record T, Volume 43, Page 289.

SUBJECT TO the payment of a proportionate share of the expense of keeping parking area, walkways and driveways in good order and repair.

SUBJECT TO EASEMENTS AND CONDITIONS as shown in Plat Record 1, Page 45; Microfilm No. 228.

BEING the same land and premises which Charles C. Anderson and Christine M. Anderson f/k/a Christine M. Baker, husband and wife, by Deed dated June 26, 2003, and recorded July 2, 2003, in the Office of the Recorder of Deeds, in and for New Castle County, State of Delaware, in Document Record 20030702-0079086, granted and conveyed unto Stephen J. Kee, in fee.

GRANTEE ADDRESS: 908 Baltimore Avenue, Wilmington, DE 19805

TAX PARCEL NO. 19-004.00-624

IN WITNESS WHEREOF, the said of the first part hereunto set, the day and year aforesaid.

Sealed and Delivered in the Presence of:

_____ Stephen J. Kee (SEAL)
 Stephen J. Kee

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

STATE OF DELAWARE:

COUNTY OF NEW CASTLE:

BE IT REMEMBERED, that on 19th day June, A.D. 2007, personally came before me, Megan Broomall-Filliben, Esq., a notary for the State and County aforesaid, STEPHEN J. KEE, to this Indenture, known to me personally to be such, and duly acknowledged this Indenture to be Deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

Megan Broomall-Filliben

 Notary Public

My Commission Expires: _____



No. 07-105
 Amount \$ 2,212.50
 Date 6/22/07
Jamie Dawson
 (Deputy Tax Collector)





The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19801

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

EXHIBIT

tabbles

19-06 P

MEMORANDUM

To: Chairman James Personti
Town of Elsmere Board of Adjustment

From: Chairman Charles G. Lindell
Town of Elsmere Planning Commission

Re.: Petition 19-06

Date: August 14, 2019

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

Dear Chairman Personti,

At the August 06, 2019 meeting of the Town of Elsmere's Planning Commission, the Commission reviewed Petition 19-06 regarding Tax Parcel Number 1900-400-624. In this application, the applicant is requesting approval to operate a home based holistic physical therapy business that would bring clients to the property.

After hearing testimony and having their questions answered, a motion to recommend Petition 19-06 to the Board of Adjustment was approved by a vote of 4 to 1 with 1 absent, and 1 vacancy.

Chairman Lindell and Commissioners Anderson, Matthews, and Steppi voted in favor of the motion. Commissioner Nuschke voted against the motion citing concerns for traffic and parking increase in the residential district.

Sincerely,

Charles G. Lindell, Chairman
Town of Elsmere Planning Commission