

**BOARD OF ADJUSTMENT MEETING
CITY OF REHOBOTH BEACH**

January 26, 2015

The Board of Adjustment Meeting of the City of Rehoboth Beach was called to order at 7:00 p.m. by Chairman Thomas Evans on Monday, January 26, 2015 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Present: Mr. Clifton Hilderley
Mr. Chuck Donohoe
Mr. Thomas Evans
Ms. Myrna Kelley
Mr. Doug Popham

Also in attendance: Mr. Craig Karsnitz, Esq., Board of Adjustment Solicitor

Mr. Chuck Donohoe was welcomed as a new member to the Board.

A quorum was present.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the October 27, 2014 Board of Adjustment Meeting were distributed prior to the meeting.

Mr. Popham made a motion, seconded by Ms. Kelley, to approve the Minutes of the October 27, 2014 Board of Adjustment Meeting as written. Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

Case No. 1114-12. Request for Variance in regard to Section 270-26 of the Municipal Code of Rehoboth Beach to allow a 0.1 foot variance from the six (6.0) foot side yard setback requirement on the southwesterly side of the property. The property is located in the R-2 Zoning District on Lot No. 8, Block Sixth at 8 Sixth Street. The Variance is being requested by Chad C. Meredith, Esq. of the law firm Hudson Jones Jaywork & Fisher LLC on behalf of Michael James Grace, owner of the property. Chairman Evans read the reasons for granting a Variance from Section 270-74(C) of the Zoning Code and noted the Public Hearing procedures.

Building Inspector Terri Sullivan read her report with exhibits. The Applicant is requesting a variance of 0.1 feet for an existing carport with deck above. An addition was put on the house in 1949, and the carport with deck above was constructed in 1979. The carport was approved at 5.9 feet from the side property line. No survey was required at the time the house or carport with deck was constructed.

Mr. Chad Meredith, Esq. of the law firm Hudson Jones Jaywork & Fisher LLC was present at the meeting to represent the applicant who was not in attendance at the meeting. He provided testimony in support of the variance. The discrepancy was first caught at the time of settlement for the property in October 2014. The new owner wanted a clear title. The current survey was performed on November 3, 2014 by Wingate & Eschenbach and shows the issue of the carport and deck being 5.9 feet from the side yard property line as opposed to the then required six feet. There is an exceptional practical difficulty because quite a bit of the structure would have to be removed for it to be compliant. It is impossible to tell that the deck is encroaching from the sidewalk. There would be no effect to the surrounding property owners, and it will not destroy the character of Sixth Street.

There was no correspondence and no public comment.

Mr. Popham made a motion, seconded by Ms. Kelley, to grant the variance for 0.1 foot on the side property.

Mr. Chuck Donohoe said that ordinarily he does not consider 0.1 foot de minimus. In this particular case, the structure has been there for 35 to 40 years, and there have been no complaints. The title has been transferred a number of times. Given the circumstances and the fact that it does not in any way degrade the property values of the neighbors, he would vote in favor of the motion. Even this amount is ordinarily not what he considers to be de minimus and should be taken and considered seriously.

(Hilderley – for. It is more than obvious, more apparent than anything else that this is de minimus. According to the Board of Adjustment’s standards and cases before it through the years, this is a minor infraction of the encroachment into the setback area. Donohoe – for, for reasons previously stated. Evans – for, for the reasons stated by his colleagues. Kelley – for. It is certainly not of any harm to the public and meets the standards of hardship. Popham – for, based on previous statements given.) Motion carried unanimously.

OTHER BUSINESS

There was none.

No meeting will be held in February 2015.

There being no further business, Chairman Evans adjourned the meeting at 7:15 p.m.

Respectfully submitted,

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
MARCH 23, 2015**

(Thomas Evans, Chairman)