

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

March 23, 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, March 23, 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

Absent: Mr. Doug Popham

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

A quorum was present.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the January 26, 2015 Board of Adjustment Meeting were distributed prior to the meeting.

Ms. Myrna Kelley made a motion, seconded by Mr. Chuck Donohoe, to approve the Minutes of the January 26, 2015 Board of Adjustment Meeting as written. Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

Case No. 0215-01. Request for Variance in regard to Section 270-35 of the Municipal Code of Rehoboth Beach to allow parking for two vehicles on Lot Nos. 17 & 19 Baltimore Avenue in the C-3 Zoning District to make possible the addition of a realty office. The property is located in the C-1 Zoning District on Lot Nos. 20, 22 & 24 at 20 Baltimore Avenue. The Variance was requested by Andrew Meddick, Jr. of Downtown Beach Rentals LLC and tenant of Celebration Mall Unit No. 1. Ronald E. Lankford is the 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 a tenant of Celebration Mall. The property is an existing lot of 15,000 square feet with a theatre, restaurant, retail space and two dwellings. The Applicant wishes to operate a real estate office which requires one (1) parking space per 400 square feet of gross floor area. The floor area as stated by the Applicant is 410 square feet. The Applicant is requesting a variance for the required two parking spaces to be allowed to be provided for in the parking lot across the street at 17 Baltimore Avenue. Since there is no area on 20 Baltimore Avenue available for parking, there is no way to put 50% on the lot where the office is located.

Chairman Evans noted that the plat at Sussex County says that the easterly portion of the land is owned by Celebration Mall. There is a potential adverse possession claim by the adjoining property owner that the garage and driveway belongs to him.

Ms. Sullivan did not have a position on the space to the east of the property which is encumbered by a garage. She did not contend that there is land available for parking. A driveway is used by Café Azafran. Signage will be placed for two parking spaces on the lot to be used exclusively for the real estate office. A business license cannot be issued if the Applicant does not have the parking spaces.

Mr. Robert G. Gibbs, Esq. of the law firm Morris James Wilson Halbrook & Bayard LLP 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 410 square foot first floor commercial unit is zoned appropriately within the building and for office use. A variance is being sought from the provision in the Code which requires two parking spaces. The parking spaces will run with the lease. If there would be a transfer of ownership to a different owner, the Applicant would not be meeting the exact language of the Code but the intent would be met which is to provide two parking spaces. Permission has been obtained for the two parking spaces at 17 Baltimore Avenue. Lankford Properties LLC has been represented to be beneficially owned by Mr. Ronald Lankford, the same beneficial owner of Celebration Mall LLC. The lease is conditioned upon approval of the variance.

Ms. Ethel Lewis, Associate Broker of Keller Williams was in attendance at the meeting. She is the assistant broker who has control of the location at Celebration Mall.

Correspondence:

1. Letter received on February 19, 2015 from Ronald E. Lankford of Lankford Property Management LLC, confirming that the tenant, Downtown Beach Rentals LLC located at Celebration Mall, Unit No. 1, has the use of two parking spaces at his parking lot Beach Parking LLC, across the street and located between the Atlantic Sands and Jam Restaurant.

There was no public comment.

Ms. Myrna Kelley made a motion to grant the variance subject to all the requirements. Motion failed to gain a second.

Mr. Donohoe made a motion to deny the variance subject to reconsideration of the variance once the Board of Adjustment has a written document from the property owner saying that the property will not be alienated during the term of the lease agreement.

Mr. Hilderley amended the motion that either the parking lot or the office will not be alienated during the terms of the lease agreement. Mr. Donohoe accepted the amendment.

Mr. Donohoe made a motion, seconded by Mr. Hilderley, to grant the request for variance subject to the two entities being the same ownership. (Hilderley – for. The language is a little messy, but the concept that the Board of Adjustment wants to accomplish is understood by everybody. Donohoe – for, for the reasons stated by Mr. Hilderley. Evans – for, for the reasons stated by his colleagues. Kelley – for. It accomplishes the desired result.) Motion carried unanimously.

OTHER BUSINESS

There was none.

There being no further business, Chairman Evans adjourned the meeting at 7:35 p.m.

Respectfully submitted,

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
JUNE 22, 2015**

(Thomas Evans, Chairman)