

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

**August 25, 2014**

The Board of Adjustment Meeting of the City of Rehoboth Beach was called to order at 7:04 p.m. by Chairman Thomas Evans on Monday, August 25, 2014 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

Present: Mr. Clifton Hilderley  
Mr. Robert Wilson  
Mr. Thomas Evans  
Ms. Myrna Kelley  
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**

No Minutes were available for approval.

**OLD BUSINESS**

There was none.

**NEW BUSINESS**

**Case No. 0714-10.** A request for Variance in regard to Section 270-26 of the Municipal Code of Rehoboth Beach to allow a patio to partially protrude into the easterly side yard setback. The property is located in the R-1 Zoning District at 41 Kent Street on Lot No. 41, Block Kent. The Variance is being requested by David Clark and Lee Anne Gelletly, owners 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 gave her report with exhibits. The property owner is requesting a variance to allow the patio that was constructed without a building permit and completed after a stop work order was issued to be allowed to remain in the side yard setback area. The setback for the side of the property that the patio is on is 8.7 feet. The patio currently sits at 4.8 feet from the property line. The furthest point of the patio is 6.5 feet from the property line. The portion of the patio that is over the setback is 28.5 square feet. The property owner could have the walkway come down the side of the property and place the patio 10 feet from the rear yard and 8.7 feet from the side yard so as not to encroach upon the setback. She noted that the owners could have a three foot walkway coming to the shower and have the patio go straight back the setback line at 8.7 feet, and they could go back to the 10 feet from the rear property line. The owners could actually have a larger patio with what Ms. Sullivan has proposed.

Mr. Mike Hoffman, Esq. of the law firm Baird Mandalas Brockstedt LLC was in attendance at the meeting in place of City Solicitor Glenn Mandalas.

Mr. David Clark, owner of the property, provided testimony in support of the variance. Mr. Clark noted that he had used the existing walkway design for the basis of his design. Work was done without a building permit. There were three areas of the design that he was putting in place which were in violation of the ordinances. Two of them have been corrected by the design. The third area was the porch area which is contiguous with the walkway and the outdoor shower. The grounds for the variance are: 1. Desirable to have the shower contiguous with the back porch and the walkway in the back. 2. The size of the intrusion is very small in the setback area. 3. The variance would practically be invisible to the public. 4. If the variance is not granted, Mr. Clark would have to pull up some of the patio. The intrusion is modest, and the design does not substantially impair the intent and purpose of the ordinances or compromise the character of the neighborhood.

Ms. Lee Anne Gelletly, co-owner of the property, provided testimony in support of the variance. All work had stopped when the stop work order was issued.

Correspondence:

1. Ms. Rita Sewell, 39 Kent Street – in support of.

Public Comment:

1. Ms. Rita Sewell, 39 Kent Street – in support of.

Ms. Myrna Kelley made a motion, seconded by Mr. Doug Popham, to not grant the variance as requested. Hilderley – against. He would like to be associated with the building inspector. What she has suggested would be perfectly alright. It would add to the neighborhood and the use of the property. This is a minor event, and there is merit in trying to do what the landowner wants to do. Wilson – against. He went along with the argument that the owner just made. He thought that it can be done within the request for variance basically. Evans – for. There was every reason and ability to do it within the constraints of the City ordinances. Even though it is minor, in this case, it is certainly fixable easily. Kelley – for. There has been very logical options provided. While it is a hardship, it is a hardship brought on by the owners themselves. It is a very doable plan staying within the setbacks. Popham – for. There is adequate means of working within the guidelines of what the setback requires.) Motion carried. Variance was denied.

#### **OTHER BUSINESS**

There was none.

There being no further business, Chairman Evans adjourned the meeting at 7:39 p.m.

**Respectfully submitted,**

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**(Ann M. Womack, City Secretary)**

**MINUTES APPROVED ON  
OCTOBER 27, 2014**

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**(Thomas Evans, Chairman)**