

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

July 22, 2013

The Board of Adjustment Meeting of the City of Rehoboth Beach was called to order at 7:01 p.m. by Acting Chairman Clifton Hilderley on Monday, July 22, 2013 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Present: Mr. Clifton Hilderley
Mr. Frank Cooper
Mr. Doug Popham

Absent: Mr. Thomas Evans
Ms. Myrna Kelley

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 June 24, 2013 Board of Adjustment meeting were distributed prior to the meeting.

Mr. Doug Popham made a motion, seconded by Mr. Frank Cooper, to approve the minutes of June 24, 2013 meeting as written. Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

Case No. 0513-05. A REQUEST FOR VARIANCE in regard to Section 270-35(B) and 270-35(C) of the Municipal Code of Rehoboth Beach to allow parking on Lot Nos. 17 & 19 Baltimore Avenue in the C-3 Zoning District to make possible the addition of nine (9) hotel rooms. The property is located in the C-1 Zoning District on Lot Nos. 20, 22 & 24 at 20 Baltimore Avenue. The Variance is being requested by Mr. Gene Lankford of Celebration Mall LLC, owner of the property. Acting Chairman Hilderley read the reasons for granting a Variance from Section 270-74(C) of the Zoning Code and noted the Public Hearing procedures for this case.

Building Inspector Terri Sullivan read her report with exhibits. The owner of 19 Baltimore Avenue is Lankford Properties, and the owner of 20 Baltimore Avenue is Celebration Mall LLC. The owner of Celebration Mall LLC is requesting a variance to allow 100% of the parking to be on the lots across the street for nine hotel rooms to be added to Celebration Mall. The owner would also need a variance to allow the properties to be in different ownership and to allow 100% of the spaces to be less than 700 feet from the principal entrance. Eleven parking spaces would be required if nine hotel rooms are added. In addition, there are currently four spaces provided on that lot for the two condominium units in Celebration Mall. In a prior case, the Board of Adjustment approved the parking for the two condominium units on the same lots by way of a variance.

Mr. Gene Lankford of Celebration Mall LLC provided testimony in favor of the variance. The proposal is within for the addition of the hotel room is within the height restrictions. The roof would be taken off of what is currently the condominium section of the building to complete the total renovation of the building. There is no space in the Mall area for parking, but there are available parking spaces on the lots across the street. Mr. Lankford noted that Lankford Properties LLC owns the parking lot, and Celebration Mall LLC owns the old church property. Mr. Lankford is 50% owner of Celebration Mall and 100% owner of the lots across the street. There will be legal documents which show that both of the entities agree that the parking can always remain in place. The parking spaces would be available for lease to the Mall entity if the property was ever broken apart. Parking spaces will remain available to the hotel rooms.

City Solicitor Glenn Mandalas acknowledged that if one or two of the parcels would be transferred, there would not be a cloud on the title which might prevent the transfer because of the action of the Board of Adjustment and the requirement in the Code. There would be an assignment in the terms of the agreement at the time of conveyance to the next entities. Board Solicitor Karsnitz noted that the Board of Adjustment could require that there be a recorded assignment with the Recorder of Deeds as a condition of the variance if it desires. City Solicitor Mandalas noted that the Applicant would prepare the assignment, and he and the Board Solicitor would review it. There are currently two issues: 1. Allowing up to 100% on a separate lot. 2. Common ownership.

Mr. Lankford explained that the property was bought in the worst of economic times and there has been a difficult time with development of it. What is being proposed would be the final phase of development. The banks are not providing financing, but are providing extensions every six months. Once the project is complete, the banks will provide a long-term mortgage. If this would fail, a lot of people would be affected by it.

There was no correspondence and no public comment.

Mr. Cooper made a motion, seconded by Mr. Popham, to grant the variance as applied.

Mr. Popham amended the motion, seconded by Mr. Cooper, to grant the variance with the stipulation that there be appropriate documentation of the relationship between the two parties that own the separate pieces of real estate so that the required parking will be made available for as long as necessary or other suitable parking is provided and approved, and that Board Solicitor Karsnitz and City Solicitor Mandalas will be able to review the documentation. (Cooper – for. There is hardship shown in the lives and conduct of the people involved in this. This is an effort to preserve jobs in that particular entity. The spirit of the law requirement is met in the fact that the spaces are available very close by so there are enough spaces available. The burden of a variance has been met. Popham – for, with the legal documentation becoming part of it so that the City is protected. Hilderley – for. The requirements in the Code are not exactly not ambiguous, they are partially arbitrary as explained by the Applicant. There are several variations that would possibly suit the request that he is asking for. It is quite clear that the hardship in addition to being monetary is also quite an exceptional problem he would have to face if the request is not granted.) Motion carried unanimously.

OTHER BUSINESS

There was none.

There being no further business, Acting Chair Hilderley adjourned the meeting at 7:35 p.m.

Respectfully submitted,

(Ann M. Womack, CMC, City Secretary)

**MINUTES APPROVED ON
SEPTEMBER 23, 2013**

(Thomas A. Evans, Chairman)