

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

July 26, 2010

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, July 26, 2010 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

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

Also Present: Ms. Stephanie Hanson, Esq. was in attendance due to a prior engagement of Mr. Craig Karsnitz, Esq., Board of Adjustment Solicitor

A quorum was present.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the June 28, 2010 Board of Adjustment meeting were distributed prior to the meeting.

Ms. Myrna Kelley made a motion, seconded by Mr. Doug Popham, to approve the minutes of the June 28, 2010 meeting as written. Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

Case No. 0610-06. A REQUEST FOR A VARIANCE in regard to Sections 270-21(A), 270-26(A) and 270-50(B) of the Municipal Code of Rehoboth Beach, to allow a 10 feet by 20 feet attached carport to be located on the east side of the existing front porch/house. The property is located in the R-2 Zoning District on Lot 133 at 161 Columbia Avenue. The Variance is being requested by Ron & Eileen Jerdonek, 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.

City Solicitor Glenn Mandalas presented Building Inspector Terri Sullivan's report with exhibits. (Copy attached.)

Mr. Randy King of Fortress Home Services, LLC provided testimony to allow the Variance on behalf of Mr. Ron & Mrs. Eileen Jerdonek, owners of the property. Mr. Ron Jerdonek also provided testimony to allow the Variance.

Correspondence:

1. Email received July 26, 2010 from Ski Rowland, 90 Sussex Street – in opposition to.
2. Email received July 26, 2010 from Mark Betchkal, 98 Sussex Street – in opposition to.

Public Comment:

1. Mr. Dennis Barbour, 153 Columbia Avenue – in opposition to. Mr. Barbour questioned how often the circumstance arises to necessitate enough change in the structure for the grounds as an unnecessary hardship to be an exceptional practical difficulty in using the property. The other issue is whether or not the Variance would change the character of the neighborhood because there are no carports in this neighborhood, and architecturally it would not be consistent with the neighborhood. He would have expected that this would have been an issue taken under consideration before the owners bought the house.

Mr. Clifton Hilderley made a motion, seconded by Mr. Popham, to deny the request for a Variance.

Mr. Hilderley said that the jurisdiction the Board of Adjustment is concerned with that is hardship is matters between real property and the Code, not issues of the status or condition of the Applicant. Mr. Hilderley read a Superior Court decision. Difficulties that are uniquely personal to the owner rather than intrinsically related to the property itself are not appropriate subjects for relief under the variance procedure. The language of the law is clear in this regard. This is clearly out of the jurisdiction of the Board of Adjustment giving a variance because it does not cover the proper subject matter that a variance is appropriate for. Mr. Hilderley said that "weather" is not in the Code, and he questioned how the Board of Adjustment would be able to grant a variance based on what the weather might be and the relationship of the Applicant to the weather. This is a non-conforming structure; and there is nothing before the Board or in the testimony as to why the Board of Adjustment should grant a variance. Testimony has been provided that it would not comply or be consistent with the neighborhood.

Chairman Evans knew that it is more difficult to do things to make the grounds safer to walk upon, but there are ways to solve these problems that do not include building a structure that is non-conforming.

Ms. Kelley agreed with Mr. Hilderley about the Board's jurisdiction and responsibilities.

Mr. Popham viewed the house from the street, and the house looks like it occupies 90% of the lot. This house was built before the current Code. If the Board of Adjustment grants a variance to put up a structure in the side yard setback, it will be compounding the issue.

(Popham – aye, for the various reasons stated. Kelley – aye, for the reasons stated because this does not justify a hardship. Evans – aye, for the reasons stated. Hilderley – aye, because this is not the proper forum for the Applicant to seek relief that has turmoiled and bothered the Applicant. Taking care and handling and putting up with the weather in Rehoboth Beach is not an excuse for building a carport.) Motion carried unanimously.

OTHER BUSINESS

There was none.

There being no further business, Chairman Evans declared the meeting adjourned at 7:31 p.m.

Respectfully submitted,

(Ann M. Womack, Recording Secretary)

**MINUTES APPROVED ON
AUGUST 23, 2010**

(Thomas A. Evans, Chairman)