

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

**October 24, 2011**

The Board of Adjustment Meeting of the City of Rehoboth Beach, was called to order at 7:46 p.m. by Chairman Thomas Evans on Monday, October 24, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

Present: Mr. Doug Popham  
Mr. Thomas Evans  
Mr. Frank Cooper

Absent: Ms. Myrna Kelley  
Mr. Clifton Hilderley

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

A quorum was present.

**CORRESPONDENCE**

There was none.

**APPROVAL OF MINUTES**

Minutes of the September 26, 2011 Board of Adjustment meeting were distributed prior to the meeting.

Mr. Frank Cooper made a motion, seconded by Mr. Doug Popham, to approve the minutes of the September 26, 2011 meeting as written. Motion carried unanimously.

**OLD BUSINESS**

**Case No. 0811-05.** Consider the Appeal of the Decision of the Building Inspector by restating the previously made motion and then voting thereon with regard to the property located in the R-1 Zoning District on Lots 99 & 101 at 125 Columbia Avenue. Frederick Hess III, Nancy J. Hess and Susan R. Maliot, owners of the property are being represented by Daniel P. Myers II, Esq. of the law firm Hudson, Jones, Jaywork & Fisher LLC.

Chairman Evans noted that in listening to the tape of the hearing and the motion made on September 26, 2011, it was hard to interpret because of people speaking over each other which caused confusion. The last thing heard was not what Mr. Cooper had intended to say. Upon discussion with Mr. Cooper, there was an unclear statement of the motion that he had intended.

Board Solicitor Craig Karsnitz stated that he had reviewed his notes on this matter, and it appeared to him that Mr. Cooper had made the motion to grant the appeal and overturn the decision of the Building Inspector that this was only one lot and not two appropriately buildable lots. Board Solicitor Karsnitz received a telephone call the day after the hearing from Chairman Evans who told him he was reviewing the matter with the administrative secretary, Ms. Ann M. Womack, who in the ordinary course listens to the tape to make sure she recorded what happened. In Board Solicitor Karsnitz's review of the tape which was hard to understand, it sounded like Mr. Cooper mistakenly said the motion both ways to grant the appeal and not to allow the appeal. Board Solicitor Karsnitz thought it was simply a mistake; but under those circumstances the administrative secretary quite properly decided that she could not interpret the motion, so Board Solicitor Karsnitz and Chairman Evans felt it was appropriate to bring it back before the Board to have the motion stated the way the maker of the motion wants it to be stated and to vote thereafter.

There was no public comment.

Mr. Cooper made a motion, seconded by Mr. Popham, to allow the Appeal and to reverse the decision of the Building Inspector. (Popham – for because he believed that the lots were never divided. Evans – for, for the reasons stated by his colleagues. Cooper – for because he did not believe that the lots were ever merged by the owners of the property.) Motion carried unanimously.

**NEW BUSINESS**

There was none.

**OTHER BUSINESS**

There was none.

There being no further business, Chairman Evans declared the meeting adjourned at 7:50 p.m.

**Respectfully submitted,**

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

**MINUTES APPROVED ON  
NOVEMBER 28, 2011**

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**(Thomas A. Evans, Chairman)**