

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

November 28, 2011

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, November 28, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Present: Ms. Myrna Kelley
Mr. Thomas Evans
Mr. Frank Cooper
Mr. Clifton Hilderley

Absent: Mr. Doug Popham

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

A quorum was present.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the October 24, 2011 Board of Adjustment meeting were distributed prior to the meeting.

Mr. Frank Cooper made a motion, seconded by Mr. Clifton Hilderley, to approve the minutes of the October 24, 2011 meeting as written. Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

Case No. 1011-06. A REQUEST FOR VARIANCES in regard to Section 270-26(A) of the Municipal Code of Rehoboth Beach to allow the placement of two (2) new heat pumps in the west side yard to replace existing units, and to allow the existing house and rear deck encroachments to remain in the west side yard setback. The property is located in the R-1 Zoning District on Lot X at 36 Park Avenue. The Variances are being requested by James M. and Edith C. Herron, 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 for both cases.

Building Inspector Terri Sullivan gave her report with exhibits. (Copy attached.) The owners are requesting a Variance for the HVAC unit so that they may replace the existing units with new units in the same area. An addendum to their Application was submitted to include Variances for the house and deck because both are also encroaching on the setback.

Mr. James and Mrs. Edith Herron provided testimony in regard to the Variance requests.

Correspondence:

1. Letter dated October 4, 2011 received from Karen Medford, 38 Park Avenue – in support of.
2. Letter dated October 3, 2011 received from Lois S. and John Thomas Wellener, 33 Oak Avenue – in support of.

Public Comment:

1. Mr. Ron Paterson, 320 Munson Street – in support of.

Mr. Hilderley made a motion, seconded by Ms. Myrna Kelley, to grant the Variances as requested.

Mr. Hilderley said that with the recent revision to provide 16 foot offsets, it has caused a little bit of this problem. Logic and common sense need to be applied to some of these cases. Air conditioners do not last forever and must be replaced. The information in the packet explains a lot of the technical advantages

of replacing air conditioners. Certainly there would be a hardship if the owners would have to relocate the air conditioner units. It is ludicrous to consider putting air conditioner units where the compressor is on top of the shed. Mr. Hilderley thought the Building Inspector was correct in bringing this to the Board's attention and causing the rejection initially. Mr. Cooper concurred.

(Hilderley – for. The language in the Code is clear, but it is ancient and does not accommodate the realities of life as it is being faced in Rehoboth Beach when it comes to air conditioners and replacing them.) Motion carried unanimously. Cooper – for. Preponderance of the evidence is that this is a favorable Variance according to the neighbors who are most affected by it. Kelley – for. The hardship situation standard has more than been met. Common sense dictates that the Variance be granted. Evans – for, for the same reasons as his colleagues. Hardship has been met, and the City signed off on most of it anyway. The rest is certainly a hardship to the Applicant.) Motion carried unanimously.

Case No. 1011-07. A REQUEST FOR VARIANCES in regard to Sections 270-26(A) of the Municipal Code of Rehoboth Beach to allow the two (2) existing HVAC units and existing above-ground propane tank to remain in the west side yard after the addition is complete and in regard to Section 270-25(A) to allow the existing patio encroachments to remain in the rear yard setback. The property is located in the R-1 Zoning District on Lot 43, Block 7 at 319 Laurel Street. The Variances are being requested by Walter L. and Elaine S. Davis, 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. (Copy attached.) The owners are looking to receive a Variance for the HVAC units and propane tanks so that they do not have to move them from their existing location. An Addendum to their Application was submitted to include a Variance for the patio to be allowed to remain as it exists.

Mr. Walter and Mrs. Elaine Davis provided testimony in regard to the Variance requests.

Correspondence:

1. Letter dated October 15, 2011, received from Blaine Taylor, 321 Laurel Street – in support of.
2. Letter dated October 15, 2011, received from Andrew Meddick, 318 Laurel Street – in support of.
3. Letter dated October 11, 2011, received from Barry Melvin, 316 Munson Street – in support of.

Public Comment:

1. Mr. Ron Paterson, 320 Munson Street – in support of.

Mr. Cooper made a motion, seconded by Ms. Kelley, to grant the Variances as requested.

Mr. Cooper said that this is in the best interest of the surrounding neighbors, and it is protecting their interests by leaving these units where they are as opposed to moving them.

Mr. Hilderley said that if this would have been done five years ago when the setbacks were before the 16 foot aggregate, there would not be a problem. Logic and common sense have to prevail. Hardship would be absolutely overwhelming if the Board would not grant the Variances as requested.

(Hilderley – for. This is exactly the kind of case which the Board of Adjustment is intended to handle and grant a Variance for. Cooper – for, for the exact same reasons Mr. Hilderley pointed out. Kelley – for, for previously stated reasons and for the obvious hardships. Evans – for. Hardship has been proven at no cost to the neighbors.) Motion carried unanimously.

OTHER BUSINESS

There was none.

The December 12, 2011 Board of Adjustment Meeting has been cancelled due to the lack of agenda items. The next scheduled meeting will be held on January 30, 2012.

There being no further business, Chairman Evans declared the meeting adjourned at 7:40 p.m.

**MINUTES APPROVED ON
JANUARY 30, 2011**

Respectfully submitted,

(Thomas A. Evans, Chairman)

(Ann M. Womack, CMC, City Secretary)