

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

December 13, 2010

The Board of Adjustment Meeting of the City of Rehoboth Beach, was called to order at 7:01 p.m. by Chairman Thomas Evans on Monday, December 13, 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

Absent: Mr. Frank Cooper
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 October 25, 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 October 25, 2010 meeting as written. (Popham – aye, Kelley – aye, Evans – aye.) Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

Consideration and possible vote on a request pursuant to Section 270-77 of the Municipal code of Rehoboth Beach from Paul Lovett, Jim Lovett and Donna Benge of Oak Grove Motor Court, Inc., owners of the property located at 43 Canal Street and 512 Rehoboth Avenue for a three month extension of the Variance granted on June 28, 2010 under Case No. 0510-05.

Ms. Jane R. Patchell, Esq. of the law firm Tunnell & Raysor, P.A. provided testimony to allow the three month extension of the Variance granted on June 28, 2010, on behalf of Mr. Paul Lovett, Mr. Jim Lovett and Ms. Donna Benge of Oak Grove Motor Court, Inc., owners of the property.

Building Inspector Terri Sullivan testified that the City has no issue with granting an extension to the Variance and encourages it. Previously, it had been discussed that the preliminary conditional approval from the Planning Commission is adequate enough to satisfy the conditions of the Variance request.

Mr. Michael Hoffman, Esq. of the law firm Baird Mandalas, LLC was in attendance at the meeting and provided additional testimony in the absence of City Solicitor Glenn Mandalas. The consideration of the resolution is set for the January 14, 2011 Planning Commission meeting, and it is up to the Planning Commission whether it will accept the resolution and grant preliminary approval.

Correspondence:

1. Memorandum dated December 11, 2010 from Dr. Preston A. Littleton, Jr., Chairman of the Planning Commission in regard to the motion passed December 10, 2010. “Whereas the Planning Commission is in general agreement to grant a Conditional Approval of Major Subdivision Application No. 0708-05, “Oak Grove at the Beach”; and whereas several necessary substantive changes must first be made to the Resolution of Approval; and further whereas the Applicant and the Planning Commission are in

agreement with the substance of these necessary changes, the Planning Commission directs the City Solicitor to provide it by December 31, 2010 with a final revised draft Resolution for review and approval.”

Mr. Popham made a motion, seconded by Ms. Kelley, to grant the three month extension of the Variance granted on June 28, 2010 under Case No. 0510-05 as requested. (Popham – for, since the Board of Adjustment had previously granted a six month Variance, and as for the cause, the Board has the right to give it three more months. Kelley – for, for the same stated reasons, and the project needs to get underway. Evans – for. Because the representatives have made their case that it was their due cause for a three month extension.) Motion carried unanimously.

Case No. 1110-12. A REQUEST FOR A VARIANCE in regard to Section 270-50(A) of the Municipal Code of Rehoboth Beach to increase an arcade by 1,496 square feet in an existing building. The property is located in the C-1 Zoning District on Lots 19& 20, Surf Avenue and Lots 1 & 3 Rehoboth Avenue at 7 North Boardwalk. The Variance is being requested by Chuck Weiner, owner of the arcade. 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 Sullivan gave her report with exhibits. (Copy attached.)

Mr. Michael Hoffman, Esq. of the law firm Baird Mandalas LLC provided additional testimony in the absence of City Solicitor Glenn Mandalas.

Mr. Chuck Weiner, owner of Dolle’s Beach Arcade and Mr. Matt Weiner provided testimony to allow the Variance.

Correspondence:

1. Letter dated December 4, 2010 and received December 10, 2010 from Mr. Brandt Watson, 35542 East Atlantic Circle, Rehoboth Beach – in opposition to.
2. Letter dated December 10, 2010 and received December 13, 2010 from Mr. Thomas Ibach, President of Dolle’s Candyland Inc. – in opposition to.
3. Signatures from 10 business owners in response to a form letter Mr. Chuck Weiner and Mr. Matt Weiner had sent them. The following business owners were in support of the variance:
 - A. Ms. Katy Kourzhara of Kohr Bros. dated December 13, 2010.
 - B., Mr. Dean Shuttleworth of Thrasher’s French Fries dated December 1, 2010.
 - C. Mr. Igal Cohen of South Beach dated December 1, 2010.
 - D. Mr. Nick Caggiano of Nicola Pizza dated December 1, 2010.
 - E. Mr. Bill Svolis of Gus N Gus Place dated December 1, 2010.
 - F. Mr. Eli Zacharia of Tidal Rave dated December 1, 2010.
 - G. Mr. Trey Kraus of Carltons dated December 1, 2010.
 - H. Mr. Richard Steele of Café Azafran dated December 1, 2010.
 - I. Mr. Kosta Tsoukalas of Robin Hood Restaurant dated December 1, 2010.
 - J. Mr. David Morgan of Capriotti’s dated December 1, 2010.

Public Comment:

1. Ms. Pat Coluzzi, 41 Sussex Street, asked what the rest of the space would be expanded to. Chairman Evans said that the applicants have requested an expansion of the same things that they currently are doing.

Ms. Kelley made a motion, seconded by Mr. Popham, to grant the Variance as requested.

Ms. Kelley said that the Board of Adjustment does not have access to information regarding how profitable the business has been the last year or two without the luncheonette and without use of that space. This could lead to hardship, financially or not.

Mr. Popham said that basically he is opposed to the expansion because the intent was to keep amusement parks, etc. at one end of the Boardwalk for whatever reason. In regard to noise, a future noise ordinance will take care of that problem.

(Popham – against, for the reason that the zoning clearly specifies it should be in C-2 as opposed to C-1 zoning. Kelley – against, for the same reasons. She did not feel comfortable that there has not been a hardship. Evans – against because hardship was not demonstrated enough.) Motion failed unanimously, and the Variance was denied.

OTHER BUSINESS

There was none.

There being no further business, Chairman Evans declared the meeting adjourned at 7:44 p.m.

Respectfully submitted,

(Ann M. Womack, Recording Secretary)

**MINUTES APPROVED ON
MARCH 28, 2011**

(Myrna Kelley, Acting Chair)