

DELAWARE BOARD OF ADJUSTMENTS
June 19, 2018

The scheduled meeting for the Delaware Board of Adjustments was held on June 19, 2018 at Town Hall. Those in attendance were Mayor Michael Houlihan, Director of Public Works Jerome Reid, Town Attorney James Waehler, Community Development Coordinator William Hardin, Planning and Zoning Chairman William Boyan and Clerk of Council Fisher. Guests: Brock Parker and David Burton.

Called To Order

Mayor Houlihan called the meeting to order.

Approval of Minutes

Public Works Director Reid made a motion to approve the January, 2018 minutes as circulated. Town Attorney Waehler seconded the motion which passed with 3 ayes and 0 absent.

New Business

Mayor Houlihan introduced everyone on the Delaware Board of Adjustments. The Board is comprised of the Mayor, himself, Michael Houlihan, Public Works Director Jerome Reid and the Delmar, Delaware Attorney James Waehler. Community Development Coordinator William Hardin and Clerk of Council Cindy Fisher along with the Chairman of Planning and Zoning William Boyan are present as well.

Mayor Houlihan said that this is a Public Hearing which has been advertised in a newspaper of local circulation and also the property has been posted. Mayor Houlihan read the notice straight as it was listed in the newspaper. The petitioner is asking for a variance for the front setback of the property on Lincoln Avenue from the required 40 foot to 20 foot. The request is to keep in-line his building with the rest of the properties on Lincoln Avenue, Delmar, DE.

Everyone who would be giving testimony at tonight's Public Hearing stood and was sworn in by Town Attorney Waehler. They were instructed that when they addressed the Board to please state their name and address.

Brock Parker introduced himself as being with Parker and Sons and being the surveyor responsible for this survey. Mr. Parker informed the Board that this Lot, which is a buildable Lot, is so narrow they would like to seek relief. The required 40 foot front setback makes it so that the house is pushed further into the Lot. The setbacks on the sides of the house are suitable, it is just the front setback that they are concerned with. The hardship is with a 40 foot front setback, a smaller house would have to go on the Lot. Mr. Parker said that the narrowness of the Lot would require a house with a 68 foot width at the widest. It is a practical difficulty that forces the house to be 40 foot off from the street, tucking the house way behind the neighbors' house. Mr. Parker stated that the homes in the rest of the neighborhood have their houses 10-15 foot from the street and they are asking for 20 foot. He provided photos showing the neighboring houses and how they sit on Lincoln Avenue.

Mayor Houlihan stated that he rides his bicycle down Lincoln Avenue daily and the houses already in the area are right up to the street.

Community Development Hardin, when asked, responded that it is a buildable Lot and is in the Community Business District. The property does meet the minimum square footage of 7,000 square feet and a 40 foot front set-back is required in a Community Business District. CDC Hardin stated that Mr. Parker is asking for a front variance only.

Town Attorney asked about the zoning for the houses that are already in the area. CDC Hardin said that they are zoned R-1 with a front setback of 20 feet. He also stated that the houses in that area were built prior to the zoning code being established. They would be considered non-conforming grandfathered in properties.

Town Attorney asked about off street parking and if this property would have a driveway. Mr. Parker responded by saying he is under the belief that this location will have a driveway. He also said if the Town would feel more comfortable, a driveway could always be put in as a condition of approval. CDC Hardin stated that 2 standard full size parking spaces are required and they need to meet Delmar's Town Standards.

Town Attorney Waehler asked Mr. Parker if this was not a self- created hardship? Mr. Parker said that the width of the property is the hardship. Mr. Parker said that Exhibit C shows that they subdivided the property the best they could. They could not zigzag the property line because they needed the square footage. Town Attorney Waehler said that the hardship; the practical difficulty is the configuring of the building envelope and putting it on the property.

CDC Hardin said that the regulations provide a provision for a house being built on the street and that it would need to be in-line as a practical matter with the other houses on the same street. He also said that there is a provision that does state the relationships of homes in their natural environment and to be a harmonious domain with the existing structures. CDC Hardin stated that Code Enforcement does not oppose a variance in this circumstance.

Mr. David Burton identified himself as living in Delmar but not in the municipality. He stated that he volunteers at Harvest Ministries which is located directly across the street on the west side of Bi-State Blvd. from the property being discussed. His main concern is when they give out food on Tuesdays. They have room for about 5 vehicles on their parking lot. Harvest Ministries has about 12 volunteers who work on that Tuesday and they need parking themselves. He said it would help their parking situation if this new house is mandated to have off-street parking. He is not opposed to the improvement to the Town but was concerned with additional cars being parked on the street. When asked, Mr. Burton stated that on Tuesdays, they give out food from 9:00 a.m. to 12 Noon. They are also closed in the month of July.

Bill Boyan, the Chairman for Delmar Planning and Zoning Commission and Delmar, Delaware Council Member identified himself and stated that the Planning and Zoning Commission did not

see a problem with keeping this property in-line with the houses already on Lincoln Avenue. The Planning and Zoning Commission was unanimous in its' decision for favorable recommendation. In reply to the question from Town Attorney Waehler, there was not any opposition to this at the Planning and Zoning Commission and there have been no letters either in favor of or against the variance request application.

Public Works Director Reid said he is in favor of the variance request. He thinks that the neighborhood would look better if this house was aligned with the rest of the neighborhood.

Mayor Houlihan agreed. He stated that the house would not look right if the setback was maintained at 40 feet.

Town Attorney Waehler said that there are some exceptional practical difficulties with this residential structure with the existing setbacks. These could have been self-created. With the building envelope it would be more of a detriment if the front variance was not permitted. Any approval would be contingent of 2 parking spaces for off street parking that meets the Town's Standards of concrete or asphalt.

Town Attorney Waehler made a motion for approval of the variance request from Blair Carey of Underbite Properties, LLC. for the front setback from 40 feet to 20 feet on the property located at Lot 88A, Lincoln Avenue, Delmar, Delaware with the condition that the construction of the house includes 2 parking spaces of either concrete or asphalt. Public Works Director seconded the motion which passed with 3 ayes and 0 absent.

Mayor Houlihan said that when they are ready to build and have the elevation design, they will have to come back before Planning and Zoning to get a favorable recommendation and at that time they will have to show the 2 parking spaces.

Adjournment

Upon hearing no further comments, Town Attorney Waehler made a motion for adjournment which was seconded by Public Works Director Reid. The motion passed with 3 ayes and 0 absent.

Submitted by:

Cindy Fisher
Clerk of Council