

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
MINUTES**

September 17, 2009

**09-BA-15
500 Church Road**

Those present at 7:24 p.m.:

Presiding: Clayton Foster

Members Present: Jeffrey Bergstrom
Gene Graham
Michael Harmer
Kevin Hudson

Staff Members: Roger Akin, City Solicitor
Maureen Feeney-Roser, Assistant Planning & Development
Director

**1. THE APPEAL OF KRISTEN AND VICTORIA TOSH-MORELLI FOR THE
PROPERTY AT 500 CHURCH ROAD, FOR THE FOLLOWING VARIANCES:**

- A) CH. 32.56.6 – FENCES INSTALLED IN A FRONT YARD IN SINGLE-FAMILY RESIDENTIAL DISTRICTS SHALL NOT EXCEED THREE FEET IN HEIGHT. PROPOSED FENCE IS SIX FEET HIGH FACING OLD CASHO MILL ROAD.**
- B) CH. 32.56.2 (d) (3) – SOLID FENCES GREATER THAN THREE FEET IN HEIGHT INSTALLED ON A CORNER LOT MUST HONOR A TWENTY-FIVE FOOT SETBACK WHEN FACING A STREET AND MEET THE VISIBILITY REQUIREMENTS OF THIS SECTION.**

Ms. Schiano read the above appeal, stated that it was advertised in the *Newark Post* and direct notices were mailed.

Kristen Tosh-Morelli, 500 Church Road, Newark, DE, was sworn in. Ms. Tosh-Morelli stated they wished to install a six-foot fence to provide added security for their toddler and containment for their dog. She also stated the placement of the fence will be set back from the actual front of the house.

At the setback on the Casho Mill side of the property, they proposed a 12 foot setback lining up with existing fences on the neighbor's property.

Mr. Bergstrom addressed the Kwik Check factors:

- The nature of the zone, which is residential, will remain the same. The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity. Mr. Bergstrom believed that due to the irregularity of the lot, the nature of the lot prohibits a reasonable use of the property compared to those in the immediate vicinity.
- If the restriction were removed, the removal would seriously affect the neighboring properties and uses. Mr. Bergstrom stated in this instance, it would not affect the neighboring properties.
- If the restriction were not removed, the restriction would create an unnecessary hardship or exceptional practical difficulty for the owner in relation to making normal improvements to the character of the permitted use. Mr. Bergstrom stated with a young child and a pet, a fence would afford some privacy and safely contain the child and the pet.

MOTION BY MR. BERGSTROM, SECONDED BY MR. HARMER: TO GRANT THE VARIANCE TO PERMIT THE PROPOSED SIX-FOOT FENCE AS SUBMITTED.

MOTION BY MR. BERGSTROM, SECONDED BY MR. HARMER: TO GRANT THE VARIANCE TO PERMIT THE 12-FOOT SETBACK.

6. Meeting adjourned at 7:36 p.m.

Tara A. Schiano
Secretary