

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

September 15, 2011

**11-BA-06
Porter Nissan/Carolina Permits
300 E. Cleveland Avenue**

**11-BA-07
Mr. & Mrs. Frank Krohe
65 & 67 E. Cleveland Avenue**

Those present at 7:00 p.m.:

Presiding: Clay Foster

Members Present: Jeffrey Bergstrom
Paul Faust
Howard Smith

Absent: Kevin Hudson

Staff Members: Bruce Herron, City Solicitor
Roy Lopata, Planning & Development Director

1. APPROVAL OF MINUTES FROM MEETINGS HELD AUGUST 18, 2011

There being no additions or corrections, the minutes were approved as received.

**2. THE APPEAL OF CAROLINA PERMITS (AGENTS FOR PORTER NISSAN),
FOR THE PROPERTY AT 300 E. CLEVELAND AVENUE FOR THE
FOLLOWING VARIANCE:**

**A) CH. 32 SEC.60 (a) (2) – “BUSINESS GROUND SIGN” – THE MAXIMUM
SIZE ALLOWANCE IS 60 SQUARE FEET. PROPOSED SIGN TO BE
RELOCATED IS APPROXIMATELY 75 SQUARE FEET IN AREA.**

Ms. Schiano read the above appeal and stated that it was advertised in the *Newark Post* and direct notices were mailed. No letters in opposition were received.

Melissa Romero, 516 Gregory Way, Voorhees, NJ was sworn in.

Ms. Romero representing Carolina Permits on behalf of Porter Nissan stated the sign at the current location had been permitted under a previous variance. The dealership was moving to a new location and requested the moving of an existing sign to

a new location. If the variance were not granted, the dealership would have to purchase a new sign and destroy the old sign at a cost of approximately \$60,000. Mr. Foster informed Ms. Romero variances go with the land not with the owner. Ms. Romero stated she was aware of the fact. Mr. Foster asked if the Planning Department had anything to add. Mr. Lopata reiterated the applicant was moving the same sign from one place to another. Mr. Lopata stated it was his opinion that it was a reasonable request, but it was the responsibility of the Board to determine whether they should approve the variance

Mr. Smith inquired if there had been a similar sign at Cleveland Avenue across the street. Ms. Romero said the dealership was in the process of installing new signage they had received permits for. But the sign in question had not been moved yet.

Ms. Romero stated the dealership needed the sign for visibility to attract customers driving by, and also to introduce the new Nissan corporate logo.

There was no one present who wished to speak against the variance.

Mr. Bergstrom stated he was in favor of granting the variance and addressed the Kwik Check factors:

- The nature of the zone which in which the property was located is zoned BC and the property (car dealership) was similar to other businesses in the area and was properly zoned for the use.
- The character of the immediate vicinity of the subject property and the use of the properties within that immediate vicinity was consistent with neighboring properties.
- The sign would not have a negative effect to the existing area as it was primarily car dealerships and the sign already existed.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed as the applicant would have to destroy and construct an identical sign.

Mr. Bergstrom stated with the Kwik Check factors in mind, he would vote to grant the variance. He asked Ms. Romero what the percentage variance increase would be. Ms. Romero stated it would be 15 square feet, which equated to approximately 25% addition.

Mr. Foster concurred with Mr. Bergstrom and stated he would vote in favor of the variance as well.

Mr. Smith planned to vote in favor of the variance even though 25% seemed like a large number, it would provide the needed visibility and would be comparable to other signs in the immediate vicinity.

Mr. Faust concurred with Mr. Smith. In his opinion, he believed the 15 square foot addition would not be significant in an area where large signs were prevalent.

MOTION BY MR. BERGSTROM, SECONDED BY MR. SMITH: TO GRANT THE VARIANCE TO RELOCATE THE EXISTING GROUND SIGN.

MOTION PASSED UNANIMOUSLY: VOTE: 3 to 0.

Aye: Bergstrom, Faust, Foster, Smith

Absent: Hudson

3. THE APPEAL OF MR. AND MRS. FRANK KROHE, FOR THE PROPERTY AT 65 & 67 E. CLEVELAND AVENUES FOR THE FOLLOWING VARIANCES:

A) CH. 32 SEC.13 (a)(1)(e) – MINIMUM SIZE OF AREA TO BE DEVELOPED FOR A GROUP DWELLING IS 1 ACRE. PLAN SHOWS 0.469 ACRE.

B) CH. 32 SEC. 13 (a)(1)(f) – AT LEAST 40% OF THE TOTAL AREA TO BE DEVELOPED FOR A GROUP DWELLING SHALL BE DEVOTED TO OPEN AREA. PLAN SHOWS 29%.

C) CH. 32 SEC. 13 (C)(7) – MINIMUM SIDE YARD REQUIRED IS 25 FEET. PLAN SHOWS 11.2 FEET.

Ms. Schiano read the above appeal and stated that it was advertised in the *Newark Post* and direct notices were mailed. A letter in support was received by adjacent property owner Mr. Harold Prettyman and will be kept on file in the City Secretary's office.

Matt Longo, Hillcrest Associates, attorney for the applicant stated there were a vast amount of similarities between Mr. Dutt's variance request and the previous variance request of Mr. Prettyman and both had been approved.

Mr. Longo stated the property was an existing duplex property that was approximately 100 years old. The Krohe's were requesting four townhouse style apartments with fifteen parking spaces located in the rear of the units. Twelve spaces were required by code. The proposal renovates the existing two units, while constructing two new units on each end. Mr. Longo provided renderings which will be kept on file in the City Secretary's office.

Mr. Longo stated the units must be upgraded to remain competitive within the student rental market. In addition, drainage and access conditions on the parcel would be resolved. The change for the City in both circumstances were

positive ones, including a sprinkler system and other modernizing improvements.

Mr. Longo wished to address the Kwik Check factors:

- The nature of the zone was RM and would remain so.
- The character and use of the immediate vicinity would not be affected by modifications as it was residential and would remain so. The surrounding area is student rentals as well. The architecture would also be consistent with properties on the adjacent properties as the same architect and landscape architect were used.
- It would not affect the nature of the zone and would not create a negative impact on the adjacent properties as they are very similar. Additionally, the renovations will greatly improve the street scape.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed due to the applicant's inability to make modern day improvements. There were numerous issues with the roof and windows which are outdated. The proposed improvements include: a sprinkler system, computer network lines, new roof, new windows, and hardwire smoke detectors. In addition, the electrical system, plumbing and HVAC would be brought up to current Code. New security systems and improved insulation would result in higher energy efficiency and noise reduction.

In addition, Mr. Longo said the improvements to this property could appeal to people willing to purchase should the student housing demand be met with some of the other larger proposed projects.

Due to the small size of the parcel and the adjoining parcels it became nearly impossible to upgrade and make the necessary improvements for the permitted use of garden apartments without purchasing and combining multiple parcels. This was not an option because the adjoining property owners. Mr. Prettyman and Mr. Dutt were not willing to combine the properties.

In addition, there were two site issues that needed to be addressed and corrected. Currently there are two narrow driveways that enter and exit onto Cleveland Avenue, each unit with their own separate entrance. These existing driveways do not have a turnaround area and require drivers to back out onto a very busy Cleveland Avenue, which is very difficult to do safely. In addition, the driveways are very close to Wilbur Street which also creates awkward and dangerous turning movements. The applicants proposed condensing two driveways into one. In addition, appropriate parking and a turnaround area would be located in the rear of the property. Renderings will be kept on file in the City Secretary's office.

The second site issue was an existing pipe that is buried on the property that has

caused sink holes in several locations. Photographs will be kept on file in the City Secretary's Office. This issue will be rectified as well.

Mr. Richard Longo, Architect and Engineer with Longo Associates, was sworn in. He stated the architecture design created by him as an architect was not the typical design found on Cleveland Avenue. It was his opinion the style of architecture would greatly enhance the area.

There was no one present who wished to speak against the variance.

Mr. Faust addressed the Kwik Check factors as follows:

- The nature of the zone was RM and would remain so.
- The character of the immediate vicinity would also not be affected by the as it is primarily student rentals.
- It would not affect the nature of the zone and would not create a negative impact on the adjacent properties. It would promise the neighboring property owners a more positive image.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed. By making the necessary updates and modifications it would make the property more marketable in a very competitive market.

Mr. Foster concurred. He continues to appreciate the improvement of the older properties, especially the addition of hard wire smoke detectors and sprinkler systems.

Motion by Mr. Bergstrom, seconded by Mr. Smith to permit the minimum size of area to be developed for a group dwelling to be 0.469 on this property.

MOTION PASSED UNANIMOUSLY: VOTE: 4 to 0.

Aye: Bergstrom, Faust, Foster, Smith

Absent: Hudson

Motion by Mr. Bergstrom, seconded by Mr. Faust to permit 29% of the area to be devoted to open area.

MOTION PASSED UNANIMOUSLY: VOTE: 4 to 0.

Aye: Bergstrom, Faust, Foster, Smith

Absent: Hudson

Motion by Mr. Bergstrom, seconded by Mr. Foster to permit the minimum side yard to be 11.2 feet.

MOTION PASSED UNANIMOUSLY: VOTE: 4 to 0.

Aye: Bergstrom, Faust, Foster, Smith
Absent: Hudson

The meeting was adjoined at 7:40 p.m.

Tara A. Schiano
Secretary

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