

**CITY OF NEWARK  
DELAWARE  
BOARD OF ADJUSTMENT  
MINUTES  
June 21, 2012**

**12-BA-1  
Mr. Harold Prettyman  
129,147, 153 and 163 Elkton Rd**

Those present at 7:00 p.m.:

Presiding: Clay Foster

Members Present: Jeff Bergstrom  
Kevin Hudson

Absent: Paul Faust  
Howard Smith

Staff Members: Bruce Herron, City Solicitor  
Maureen Feeney-Roser, Planning & Development Director

***Secretary's Note: The recording system malfunctioned and the meeting was not recorded.***

**1. APPROVAL OF MINUTES FROM MEETINGS HELD DECEMBER 15, 2011**

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

**2. THE APPEAL OF HAROLD PRETTYMAN FOR THE PROPERTY AT 129, 147, 153 AND 163 ELKTON, FOR THE FOLLOWING VARIANCES:**

**A) CH. 32 SEC.11 (a)(1)(d) – “MAXIMUM LOT COVERAGE” – THE MAXIMUM LOT COVERAGE FOR ANY BUILDING, EXCLUSIVE OF ACCESSORY BUILDINGS, SHALL BE 20%. PLAN SHOWS 22.3%.+/-.**

**B) CH. 32 SEC. 9 (a)(1)(d) – “MINIMUM DISTANCE” - REQUIRES A 25 FOOT MINIMUM DISTANCE BETWEEN BUILDINGS FOR GARDEN APARTMENTS. APPLICANT PROPOSES A 20 FOOT DISTANCE DURING PHASED CONSTRUCTION OF THE PROPOSED PROJECT.**

**ZONING CLASSIFICATION: RM**

**A) CH. 32 SEC. 18 (d)(7) - “SIDE YARDS” - REQUIRES A SIDE YARD LOT LINE IN BB ZONING (WHEN IT FORMS A BOUNDARY LINE WITH A RESIDENTIAL DISTRICT) TO BE EQUAL TO THE MINIMUM SIDE YARD OF THE RESIDENTIAL DISTRICT. PROPOSED BUILDING ON THE CORNER OF ELKTON AND BEVERLY ROADS WILL BORDER AN RM DISTRICT (20'**

**MINIMUM SIDE YARD) AND PROPOSED PLAN SHOWS AN 11' SIDE YARD.  
ZONING CLASSIFICATION: BB**

Ms. Schiano read the above appeal and stated it was advertised in the *Newark Post* and direct notices were mailed. Eleven letters in support letter were received and entered into the record.

Lisa Goodman, Esquire, from Young, Conaway, Stargatt & Taylor, LLP represented the applicant Hal Prettyman. Ms. Goodman stated there had been several public meetings that she, Mr. Prettyman and the project engineer, Matt Longo had attended. The purpose was to obtain neighborhood feedback and to circumvent any issues the adjoining neighbors had prior to the project coming before the City. It was Ms. Goodman's opinion the approach was a success.

Ms. Goodman explained each variance request and a discussion followed

Mr. Bergstrom addressed the Kwik Check factors in regard to the first variance:

- The nature of the zone which in which the property was located was zoned RM and would remain so.
- 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 along Elkton Road.
- The small variance request (2.3%) would not negatively affect or diminish neighboring property values.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed as the applicant would have to consider more expensive options and the variance request was small and a reasonable accommodation.

Messrs. Bergstrom, Foster and Hudson stated with the Kwik Check factors in mind, they would vote to grant the variance.

**MOTION BY MR. FOSTER, SECONDED BY MR. HUDSON: TO GRANT THE  
VARIANCE TO PERMIT A 22.3% LOT COVERAGE.**

**MOTION PASSED UNANIMOUSLY: VOTE: 3 to 0.**

**Aye: Bergstrom, Foster, Hudson**

**Absent: Faust, Smith**

Mr. Bergstrom addressed the Kwik Check factors of the second variance:

- The nature of the zone which in which the property was located was zoned RM and would remain so.

- The character of the immediate vicinity of the subject property and the use of the properties within that immediate vicinity were consistent with neighboring properties.
- The variance, which was temporary and only necessary due to the configuration of the property, was acceptable under the conditions.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed as the applicant would not be able to construct the buildings with the present plans.

Messrs. Bergstrom, Foster and Hudson stated they would vote to grant the variance.

**MOTION BY MR. BERGSTROM, SECONDED BY MR. FOSTER: TO GRANT THE VARIANCE TO PERMIT A 20 FOOT DISTANCE DURING PHASED CONSTRUCTION OF THE PROPOSED PROJECT  
MOTION PASSED UNANIMOUSLY: VOTE: 3 to 0.**

**Aye: Bergstrom, Foster, Hudson**

**Absent: Faust, Smith**

Mr. Hudson addressed the Kwik Check factors in regard to the third variance:

- The nature of the zone which in which the property was located was zoned BB and would remain so.
- 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 variance request was acceptable and necessary due to the configuration of the property.
- It would create an unnecessary hardship or exceptional difficulty if the restriction were not removed as the applicant would not be able to construct the buildings with the present plans.

**MOTION BY MR. BERGSTROM, SECONDED BY MR. HUDSON: TO GRANT THE VARIANCE TO PERMIT THE PROPOSED 11' FOOT SIDE YARD AS REQUESTED.**

**MOTION PASSED UNANIMOUSLY: VOTE: 3 to 0.**

**Aye: Bergstrom, Foster, Hudson**

**Absent: Faust, Smith**

**The meeting was adjoined at 7:33 p.m.**

Tara A. Schiano  
Secretary

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