

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

**June 21, 2007**

**\*07-BA-04  
Alan E. Schweizer, Jr.  
420 S. College Avenue**

Those present at 7:30 p.m.:

Presiding: Clayton Foster

Members Present: Jeffrey Bergstrom  
Cathy Johnston  
Linda Shopland

Members Absent: Michael Harmer

Staff Members: Bruce C. Herron, Deputy City Solicitor  
Steve Wilson, Code Inspection Supervisor

**1. APPROVAL OF MINUTES FROM MEETING HELD MAY 17, 2007**

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

**2. THE APPEAL OF ALAN E. SCHWEIZER, JR., FOR THE PROPERTY AT 420 S. COLLEGE AVENUE FOR THE FOLLOWING VARIANCE:**

**A) CH. 32, SEC. 32-56.2(a) STATES BUILDINGS MAY BE ERECTED IF THE LOT IS AT LEAST 75% OF THAT PRESCRIBED FOR THE DISTRICT. MINIMUM LOT REQUIRED IN RD ZONING IS 6250 SQUARE FEET (6250 X 0.75 = 4687.5 SQ. FT. NEEDED). NEW CASTLE COUNTY PARCEL INFORMATION SHOWS LOT SIZE IS 4320 SQ. FT.**

**B) CH. 32, SEC. 32-10(C)(5) REQUIRES MINIMUM SET BACK FROM THE STREET OF 15 FT. PLAN SHOWS SET BACK FROM HOLTON PLACE IS 2.82 FT.**

**C) SECTION 32-10(C)(7) REQUIRES TWO SIDE YARDS OF 8 FT. WIDTH WITH AN AGGREGATE WIDTH OF 20 FT. PLAN SHOWS ONE SIDE YARD IS 2.82 FT. IN WIDTH WITH AN AGGREGATE OF 12.67 FT.**

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Ms. Van Veen read the above appeal. Direct notices were mailed and a public notice was advertised in the **Newark Post**. The Building Department did not have anything to add.

Mr. Alan E. Schweizer, Jr., 28 White Oak Road, Landenberg, PA was affirmed by Mr. Foster.

Mr. Schweizer said the original three-story house built on this property in 1880 burned to the ground in 1989. A ranch house of about 1800 square feet was erected on the same footprint, and that dwelling burned on April 12, 2006. Mr. Schweizer acquired the property on January 11, 2007. He made an effort to have all building plans approved within one year of the fire but was unable to meet that time frame. Since the one year deadline to obtain the building permit had passed, he filed for a variance. Mr. Schweizer shared newspaper photographs of the house from the April 12<sup>th</sup> fire. The photos showed the dwelling came out fairly close to South College Avenue, with a deck extending out 12 feet further. Mr. Schweizer decided not to build another 1800 square foot rancher because it would be too large for the size of the property. Instead, he chose to build a smaller one and a-half story house which would occupy approximately 60% of the rear portion of the existing foundation, and would leave substantially more green space in the front section. Although the right side setback was approximately 2.82 feet, additional City-owner property of 15 feet between the curb and the property line gave the appearance of a 17 foot setback. The left side setback and front and rear met all requirements. He displayed the design plan for the home and felt it would blend in nicely with the neighborhood and would be an improvement over the eyesore that existed there for over a year. Mr. Schweitzer received a letter in full support of the plan from the owner of the property directly behind his at 1 Holton Place.

Mr. Foster asked if there were any questions from the Board.

Mr. Bergstrom noted there was a typographical error in the denial letter from Mr. Sciulli of the Building Department. In the first bulleted item, third line should read ( $6250 \times 0.75 = 4687.5$  square feet needed). Although the letter incorrectly stated .075, the mathematical calculations were correct.

Mr. Foster questioned if the house would have the same footprint as the former property. Mr. Schweizer said it would occupy only 60% of that area because the first 40 feet of the foundation (which had been a crawl space) would be removed, and the 12 foot deck would be eliminated. Mr. Foster had difficulty reading the last sentence of the application, and Mr. Schweizer clarified that it read, "This will also mean that a very narrow (22') house will not be needed." Mr. Foster questioned what amount of time was specified in the code for rebuilding, and Mr. Schweizer stated a building permit had to be filed within a year.

Mrs. Shopland asked why the application was not made by April. Mr. Schweizer stated the plans were not completed at that time. Mrs. Shopland inquired whether the plans had to be completed before applying for the building permit, and Mr. Wilson verified that they needed to be completed.

Mrs. Shopland questioned whether the arson investigation would prohibit the start of building on the property. Mr. Schweizer advised that everything had been removed by the

previous owner, and only the concrete foundation and a temporary fence remained. Mr. Wilson advised that the investigation was ongoing, but the property had been released to the owner to do with as he wished.

Mr. Foster asked if there was a reason Mr. Schweizer did not ask for a variance on the one year time limitation to preserve the grandfathering. Mr. Schweizer said he completed the variance application, and the Building Department filled in the section of the Code that applied.

Mr. Barry Wallace, 426 S. College Avenue, received mail notification of the variance and had no objections. Mr. Wallace's concern was that he learned from the recent property survey that his driveway encroached on Mr. Schweizer's property. Mr. Wallace was not previously aware of the encroachment. Mr. Foster stated this was not a problem for consideration by the Board, and that Mr. Wallace should work this out with Mr. Schweizer. Ms. Johnston and Ms. Shopland agreed the Board had no authority to rule on that problem.

Mr. Foster commented he was in favor of granting the variance. Mr. Bergstrom believed the reduction in size for the proposed dwelling tended to bring it into much greater compliance than the original building. Mr. Bergstrom and Ms. Shopland felt the delay in seeking the variance was beyond the applicant's control based on the arson situation.

MOTION BY MR. BERGSTROM, SECONDED BY MS. SHOPLAND: TO APPROVE THE AREA VARIANCE REQUESTED FOR THE NEW STRUCTURE TO OCCUPY A GREATER AREA THAN PERMITTED.

MOTION PASSED UNANIMOUSLY. VOTE: 4 to 0.

Aye: Bergstrom, Foster, Johnston, Shopland.

Nay: 0.

Absent: Harmer

MOTION BY MR. BERGSTROM, SECONDED BY MS. SHOPLAND: TO APPROVE THE VARIANCE TO REDUCE THE MINIMUM SETBACK FROM THE STREET FROM 15 FEET TO 2.82 FEET.

MOTION PASSED UNANIMOUSLY. VOTE: 4 to 0.

Aye: Bergstrom, Foster, Johnston, Shopland.

Nay: 0.

Absent: Harmer

MOTION BY MR. BERGSTROM, SECONDED BY MS. JOHNSTON: TO APPROVE THE VARIANCE TO REDUCE ONE SIDE YARD MINIMUM WIDTH FROM 8 FEET TO 2.82

FEET AND THE AGGREGATE WIDTH FROM 20 FEET TO 12.67 FEET.

MOTION PASSED UNANIMOUSLY. VOTE: 4 to 0.

Aye: Bergstrom, Foster, Johnston, Shopland.

Nay: 0.

Absent: Harmer

VARIANCES GRANTED WITH THE CONDITION THAT CONSTRUCTION BEGIN WITHIN SIX MONTHS.

3. Meeting adjourned at 7.55 p.m.

Alice Van Veen  
Secretary