

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
MINUTES
April 18, 2019**

Those present at 8:00 p.m.:

Members:	Jeff Bergstrom, Chairman Chris Rogers Kevin Hudson Bill Moore
Staff:	Paul Bilodeau, City Solicitor Mike Fortner, Planner Danielle S. Mapp-Purcell, Administrative Professional

The chairman called the meeting to order at 8:05 p.m.

1. APPROVAL OF MINUTES FROM MEETING HELD FEBRUARY 21, 2019:

MOTION BY MR. HUDSON, SECONDED BY MR. ROGERS: TO APPROVE THE MINUTES AS PRESENTED.

MOTION PASSED. VOTE: 4 to 0.

Aye: Bergstrom, Hudson, Moore, Rogers.
Nay: 0.
Absent: 0.

Mr. Fortner read the facts of the case into the record.

2. The appeal of Michael and Amala Fahey, property addresses 15 Prospect Avenue, for the following variance:

- **Sec. 32-10(c)(2) – Area Regulations.** – *Maximum lot coverage.* The maximum lot coverage for any building, exclusive of accessory buildings, shall be 25%. The applicant's plan indicates the lot coverage with the proposed addition would be 27.5%. This requires a 2.5% variance for lot coverage.

Mr. Bergstrom verified that the Board reviewed the minutes from the April 19, 2018 meeting where this variance was previously approved. He noted these minutes were part of the record for this meeting.

Michael Fahey, 15 Prospect Avenue, was sworn in. Mr. Fahey stated he was before the Board last year and had received an approval for his project. At the time of approval, Mr. Fahey had a contractor who eventually canceled the contract with the Fahey's because too much time had passed for the financing to be granted. Mr. Fahey now had funds and the plan had not changed.

Mr. Fahey believed this project would improve the community. The entire block consisted of student rentals except for his property and another neighboring property. When his family moved into the property in 1985,

Mr. Fahey believed an estimated 80% of the residents were homeowners. Mr. Fahey stated his family does not mind the change to the neighboring community. Mr. and Mrs. Fahey were avid gardeners, who taught yoga locally and do not intend to move. This project had been a long-awaited project for Mr. and Ms. Fahey. Their bedroom was originally a covered porch which did not have a lot of square footage. He believed this addition would not hinder the lifestyle of any neighbors.

Mr. Bergstrom asked Mr. Fahey that if the Board were to approve this application, would Mr. Fahey object to a 6-month deadline start date. Mr. Fahey asked for clarification if the 6 months timeframe was the same in the previous approval and included the clause "break ground." Mr. Bergstrom said this was true. Mr. Fahey agreed to the timeframe.

Mr. Rogers stated variances had to meet certain criteria and reviewed the **Kwik Check Factors**:

1. *The nature of the zone in which the property is located* – Mr. Rogers asked for the record were there any changes in the plan or the nature of the zone and neighborhood. Mr. Fahey stated nothing had changed, he and another family were the last two owner occupied residents on the street.
2. *The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity* – Mr. Rogers reiterated Mr. Fahey's comment neighborhood included many rentals with college students.
3. *Whether, if the relevant restrictions upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses* - Mr. Rogers asked Mr. Fahey if the restrictions that had bound him to the percentage was removed, would the work have any adverse impact on the adjacent properties. Mr. Fahey stated he just wanted to have a bedroom similar to the neighboring property, owned by Mr. Dutt, which had a home with four large bedrooms. He would like to have a bedroom 15' x14'. Mr. Rogers asked if Mr. Dutt still did not have any objection to the project; and Mr. Fahey stated yes, that Mr. Dutt has not raised any. Mr. Fahey explained that Mr. Dutt now owned the home adjacent to 15 Prospect Avenue.
4. *Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to efforts to make normal improvements in the character of that use of the property* – Mr. Rogers questioned if the variance was denied, would the hardship would be that they would not be able to increase the size of the room. Mr. Fahey stated yes. Mr. Rogers clarified his intent was to have Mr. Fahey restate this for the record.

Mr. Bergstrom asked Mr. Rogers how he would vote, and Mr. Rogers stated that the variance should be approved based on the facts.

Mr. Bilodeau asked Mr. Bergstrom if they should ask if anyone from the public would like to speak. Mr. Bergstrom stated they were still having the discussion and were not ready for a motion.

Mr. Bergstrom then asked Jean White, District 1, if she had comments. Ms. White stated she did not have any comments.

Mr. Moore stated based on the record from the previous hearing as well as the current testimony, he did not have an objection to the variance and would vote in favor.

Mr. Hudson said that based on the previous hearing and the current testimony, he would incorporate his *Kwik Checks Factors* from the previous hearing to this; based on those facts with no change to conditions, he would be inclined to approve the appeal.

Mr. Bergstrom added that he agreed with his colleagues and would grant the variance.

MOTION BY MR. HUDSON, SECCONED BY MR. MOORE: TO APPROVE THE APPEAL.

Mr. Bergstrom asked if anyone wanted to discuss the approval. Mr. Bilodeau questioned if it would be a 6-month period. Mr. Bergstrom asked Mr. Fahey if he was sure he could begin within 6 months. Mr. Fahey asked for eight months because, the hardest part of the project would be having the foundation constructed. Mr. Bergstrom granted Mr. Fahey 9 months to break ground.

MOTION BY MR. HUDSON, SECONDED BY MR. MOOORE: TO APPROVE THE APPEAL ON THE CONDITION CONSTRUCTION BEGINS WITHING 9 MONTHS OF APPROVAL.

Mr. Bergstrom called for a vote.

MOTION PASSED. VOTE: 4:0.

Aye: Bergstrom, Hudson, Moore, Rogers.

Nay: 0.

The meeting was adjourned at 8:26 p.m.

Danielle S. Mapp-Purcell
Administrative Professional, Paralegal

/dmp