

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
MINUTES
JUNE 16, 2022**

Those present at 7:00 p.m.:

Members:	Jeff Bergstrom, Chair Chris Rogers Mark Morehead
Absent:	Scott Bradley Kevin Hudson
Staff:	Paul Bilodeau, City Solicitor Michael Fortner, Planner II Nichol Scheld, Deputy City Secretary Philip Machado, Administrative Professional I

Mr. Bergstrom called the meeting to order at 7:00 p.m. and requested the roll call.

1. APPROVAL OF MINUTES FROM MEETING HELD APRIL 21, 2022:

MOTION BY MR. ROGERS, SECONDED BY MR. MOREHEAD: TO APPROVE THE APRIL 21, 2022 MINUTES.

MOTION PASSED. VOTE: 3 to 0.

Aye: Rogers, Morehead, Bergstrom.
Nay: 0.

2. The appeal of Jonell Bristol, property address 188 Madison Drive.

Ms. Scheld read the facts of the case into the record.

- Sec. 32-45 – Dwelling, one family – The property has one garage and one off-street parking space. Code requires two off-street parking spaces per dwelling unit. Applicant requests a variance of one parking space to permanently enclose the garage.

Mr. Morehead disclosed to the Board that he was the owner of a rental property near the applicant on Lincoln Drive and that his unit had a similar layout except that his unit was on the end of the block. He believed he could make the decision without prejudice and neither Mr. Bergstrom nor Mr. Rogers had any problem with the disclosure.

Ms. Bristol confirmed she was not an attorney and was sworn in by the Chair. She came before the Board seeking a variance for her primary residence at 188 Madison Drive, where she had been the homeowner since 2008. She explained that her family had grown and over time space became more limited.

She wished to remove the garage door, which needed repair, and enclose the area with a wall and window similar to other properties in the area. She informed the proposed change would allow her family to store their things more securely, as well as provide an area for her children to utilize. She mentioned that she provided the Board with a letter she sent to Councilwoman Creecy, who was also her neighbor, and stated that she had Ms. Creecy's support. She described the property as a townhome with additional parking in the rear with a one car garage. She requested the Board allow her to remove the garage door enclose the space to better allow its use as a storage area.

Mr. Rogers asked if the room configuration would limit the rooms use for future owners and Mr. Fortner did not believe it would. Mr. Rogers then asked about the parking in the area behind the house. Ms. Bristol clarified the parking behind her house was public parking attached to Dickey Park and that parking passes were not required. She mentioned that some of her neighbors parked in the spots because they had already modified their homes in the style of her request. Mr. Rogers asked about availability of parking at any given time, and Ms. Bristol stated she and her husband had never had a problem with either of their vehicles.

Mr. Morehead asked Mr. Fortner if the change to the garage area would need a building permit request and Mr. Fortner confirmed. Mr. Morehead asked if the size of the room would limit potential uses as a bedroom and Mr. Fortner did not think there would be any additional requirements to use the room as a bedroom. Mr. Morehead asked if the change was a common one in the area. Ms. Bristol confirmed and thought that as many as eight out of ten of her neighbors had made the change. Mr. Morehead asked Mr. Fortner if the parking at Dickey Park was regulated, and Mr. Fortner informed the Parks and Recreation Department maintained the park, but he did not know how parking was policed. He believed that the park was for park users only and suggested Ms. Bristol used on street parking. Mr. Morehead asked Ms. Bristol to describe the neighborhood; she responded it was a residential neighborhood of families with children that played in the park. Mr. Morehead asked about the character of the immediate area and Ms. Bristol replied the neighborhood was a mix of homeowners and renters comprised of families and students. Mr. Morehead asked if the change would negatively affect the surrounding properties and Ms. Bristol replied that she did not believe there would be any change because the use would be the same with an enclosed room. She explained that she had used the space in the same way since 2008 and any work done to make the change would be done during work hours to minimize the disturbance to neighbors. Mr. Morehead asked what it would mean to Ms. Bristol if the Board did not allow the variance. Ms. Bristol believed a denial would continue her hardship caused by a non-enclosed space; she gave an example of having to leave the house for two months due to a bat flying into the space.

Mr. Rogers asked if the area had ever been used for parking and Ms. Bristol replied that it had not been. She reiterated that she had been using the space for storage and had even been paying for extra storage; she would be able to spend more money on items, like food, if the variance was granted.

Mr. Bergstrom stated he had no further questions for the applicant; he believed she had gone over the Kwik check factors sufficiently.

The Chair opened the floor to public comment. There was no public comment.

Mr. Bergstrom asked Mr. Rogers to review the *KWIK Check Factors*:

1. *The nature of the zone in which the property is located* – The property was zoned RR, and the nature was townhouses.

2. *The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity* – The area was a mixture of families and renters in townhouses.
3. *Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses* – The applicant's updated use would not any impact on neighboring property if the restriction was removed.
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 stated that Ms. Bristol would be deprived of similar use of the property as her neighbors had done and the improvement she wished to make would properly enclose and secure the storage area.

Mr. Rogers was in favor of this variance request.

Mr. Morehead agreed with Mr. Rogers and added that the City Representative stated there was no shortage of parking in the area. He continued there was a City Park immediately behind the property that contained a large amount of parking, and he would be supporting the applicant's request, especially with the precedence set with the neighboring properties.

Mr. Bergstrom considered the *KWIK Check* standards met and the residential single family home use of the neighborhood and the property were deemed appropriate by the Planning Department. He added the removal of the restriction would not change the use of the property from over the last decade and the owner demonstrated hardship if the restriction was not removed. He believed the removal of the restriction would allow for better economic use of the property and was in support of the request.

MOTION BY MR. ROGERS, SECONDED BY MR. MOREHEAD: TO APPROVE THE VARIANCE FOR REASONS STATED.

MOTION PASSED. VOTE: 3 to 0.

Aye: Rogers, Bergstrom, Morehead.
Nay: 0.

MOTION BY MR. MOREHEAD, SECONDED BY MR. ROGERS: TO ADJOURN.

The meeting adjourned at 7:23 pm.

Philip Machado
Administrative Professional I

/pm