

NEW CASTLE BOARD OF ADJUSTMENT

September 29, 2016

Board Members Present: Todd Baker, Chair, Russell Cox, Rebecca Goldberg, John Fitzpatrick, Margaret Sofia, Mark Gardner and prospective new ZBA member Dr. Ben Lannon

Board Members Absent: None

**Case # 2016-04** filed by Amy and Jon Gworek, owners of 41 Oliver Street, Map 16, Lot 26 – request for variance to allow shed within the lot setback.

Guests who signed in: Amy Gworek, Jeff Hughes, Thomas Bates, and Ann McAndrew

Voting members on Case # 2016-04: Todd Baker, Margaret Sofia, Rebecca Goldberg John Fitzgerald and Mark Gardner. Russell Cox excused himself due to a conflict.

Chair Baker opened the meeting at 7:00 pm and indicated that the applicant had filed all required documents and that all requisite notices had been sent out.

Amy Gworek presented the case and indicated that she was seeking a variance to place a shed within the sideline set back area. The applicant pointed out that she was seeking to place the shed on the opposite side of the lot than indicated on the application and that the shed's dimensions would be 8' by 12' and not 8' by 10'. A general discussion was held about other details on the plan submitted as part of the application and the applicant agreed that the only matter to be considered by the Board was the request to place the shed within the applicable set back area. The Chairman pointed out to the applicant that Section 4.1.2.3a. of the New Castle Zoning Ordinance permitted her to place a shed 5 feet from the side yard if the shed were 8' by 10' or less and that such would obviate the need for a variance. The applicant responded that she and her family really needed the extra space that an 8' by 12' shed afforded and proceeded to go over the five criteria for a variance.

The applicant went through the five criteria for granting a variance and argued that: 1.) granting the variance would not be contrary to the public interest as having an adequate storage area for bikes, skateboards and other similar equipment would keep it from being out in the open, 2.) that the spirit of the ordinance was being observed, 3.) substantial justice would be done, 4.) there would be no diminution of surrounding property values given that the shed would reduce the likelihood of clutter, and 5.) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship due to the lack of existing and adequate storage space.

Jeff Hughes of 47 Oliver Street an abutter to the applicants' property indicated that he had no objection to the shed being placed as requested so long as he was able to access his fence which runs along their respective properties for the purpose of painting and routine maintenance. A Barbara Hughes of 47 Oliver Street sought verification that the only approval being considered was related to the shed and not any other details (e.g., a patio, a deck) which were submitted in connection with the application.

Chairman Baker closed the public comment session and asked the members of the ZBA to commence its deliberations.

All voting members of the ZBA were of the opinion that the request for the variance was a reasonable one as the request was De Minimis and the applicants' immediate neighbors did not object.

John Fitzpatrick moved to approve of the request for the variance which was seconded by Margaret Sofio. The motion to approve carried unanimously.

**Case # 2016-06** filed by Thomas and Martha Bates, owners of 36 Piscataqua Street, Map 18 Lot 30 for a variance to permit an expanded kitchen, 2<sup>nd</sup> floor dormer on the house and 2<sup>nd</sup> floor dormer on the garage.

Thomas Bates appeared before the Board and noted that this application was intended to override a previously approved application dated January 21, 2016 (Case # 2016-01). Mr. Bates noted that it had been determined that the structure would not support the two approved dormers without rebuilding the north wall of the house and undertaking substantial reconstruction work. Mr. Bates further related that he was seeking to change the location of a home office from the 3<sup>rd</sup> floor of the house to the 2<sup>nd</sup> floor of the garage which he asserted would minimize the need to reconstruct a large portion of the interior of the house.

After going through the five criteria as set forth in the accompanying material submitted with the application a general discussion ensued concerning the current use of the house. It was noted that the applicants' have been renting the house through VRBO, a web based vacation rental site. Mr. Bates related that the home was only being rented out in the summer months and would ultimately be their primary residence. Ann McAndrew, a neighbor of the Bates' spoke against granting the variance and made note of the nuisance some of the guests who rented the property had caused.

Chairman Baker read several letters into the record from Pam Cullen, Ann McAndrew and Jeff and Sarah Flause, who all objected to granting the variance.

Upon hearing the objections of their neighbors, the applicant's requested to have their application withdrawn. No further action was taken by the Board on the matter.

The minutes of July, 2016 meeting were reviewed and approved of unanimously.

There being no further business before the Board a motion was made by Russell Cox to adjourn, seconded by Mark Gardner which carried unanimously. The meeting was adjourned at 8:25 pm.

Respectfully Submitted,

Mark H. Gardner, Recording Secretary Pro Tempore