

**A New Castle City Board of Adjustment Hearing took place on October 7, 2008 at 7 p.m. in the City of New Castle's Town Hall.**

Present: Mayor John F. Klingmeyer  
Roger A. Akin, City Solicitor  
David Athey, City Engineer

Mayor Klingmeyer called the meeting to order at 7:07 p.m. He introduced City Solicitor Roger Akin and City Engineer David Athey.

The Mayor read the Notice of Public Hearing that states, "An application has been filed by Gary Phillips, 608 Frenchtown Road, New Castle, for an appeal from an administrative decision denying permission to install a five foot, six-inch tall wood garden screen in the required 25 foot front yard setback area on property located at 608 Frenchtown Road, New Castle, Delaware, otherwise known as tax parcel number 2101000009. For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Tuesday, October 7, 2008, at 7 p.m. in Old Town Hall, 2<sup>nd</sup> floor, located at 201 Delaware Street, New Castle, Delaware."

A check for \$600 has been received from the applicant and notice of affidavit was advertised in the News Journal paper on 9/22/08. Mr. Jeff Bergstrom, City Inspector, confirmed that the property has been properly posted.

Mr. Bergstrom provided a brief description of the application.

*(Mr. Phillips was sworn in by Mayor Klingmeyer.)* Mr. Phillips described his property for the Board and the reasons for his request to install the fence in the required setback area. His property is close to two busy roadways. The fence will provide added security, help reduce noise, and would add aesthetic value. Neighbors on both sides are in favor of his application.

Mr. Bergstrom explained the applicant's request further using a diagram provided by the applicant.

*(No audience members are present at this hearing.)*

The Mayor stated that through no fault of the applicant the highway has been widened and it diminishes the value of the homes as well as the quality of life in this area. Nearby property that was formerly residential is now commercial property. Erecting this fence will help to protect the property and is consistent to maintain it as a residential area.

Mr. Athey expressed concern that the notice does not mention a variance request.

Mr. Akin feels the notice is proper because Mr. Phillips is seeking an appeal from the decision to deny his request to install a fence in the setback area. In appealing that decision it is obvious that he would be requesting a variance from the 25 foot front yard setback requirement. He is satisfied that the public has

been given proper notice. *(The applicant noted on his application that he would be seeking a variance from the front yard setbacks in the Code.)* The matter on the table tonight is whether we believe in our discretion that a variance should be granted for the 25 foot setback area for the fencing.

Mr. Akin indicated that since there is no one in the audience this evening it can be assumed that there is no opposition to this application. This is an odd-shaped lot and the applicant has been the recipient in the past (and possibly the future) of road-widening projects by way of DelDOT. The shape of the lot is something that the applicant did not create. No special privilege would be conveyed upon the applicant; others in the area have installed fencing.

**Mr. Akin made a motion to grant two (2) variances (14<sup>th</sup> Street frontage and Frenchtown Road frontage) for the fence installation. Mr. Athey seconded the motion. Mr. Athey voted in favor of the motion citing that having two front yards is a hardship that the applicant did not create. Mayor Klingmeyer voted in favor and stated that the property is unique and agreed with the other rationale provided. Mr. Akin voted in favor citing his earlier rationale.**

**The motion was approved by unanimous vote.**

The hearing was adjourned at 7:45 p.m.

Respectfully submitted,

Debbie Turner  
Stenographer