

A New Castle City Board of Adjustment Hearing took place on May 7, 2009 at 7:30 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 8:20 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 the Trustees of New Castle Commons for property located at 710 West Eighth Street, New Castle, Delaware, (also known as 0 West Seventh Street), parcel number 21-016.00-001, seeking a special exception to permit the construction of an electric substation on the property, and a variance to allow the construction of an eight foot high chain link fence topped with one foot of barbed wire surrounding the substation.

For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Thursday, May 7, 2009, at 7:30 p.m. in Old Town Hall, 2nd Floor, located at 2nd and Delaware Street, New Castle, Delaware.+

An affidavit of publication in the News Journal was published on 4/22/09. Mr. Bergstrom confirmed that the property has been properly posted.

Mr. John Bloxom of Morris, James is representing the Municipal Services Commission (MSC). The applicant is the Trustees of New Castle Commons. The application before the Board tonight is an application for a special exception for an electric substation at the property of 0 West Seventh Street that has been reassigned the address of 710 West Eighth Street. The application for special exception was presented at a recent Planning Commission meeting and approved. An amendment was made in April to add an application for a variance which is for a non-opaque fence which is eight feet (8'). Seven (7) feet would be chain link with one foot (1') of wire for public safety. This would be the second of two (2) substations for the City of New Castle.

(Mr. Chip Patterson was sworn in by the Mayor.)

Mr. Patterson explained the need for the second substation. Future load growth of the city and maintenance/efficiency of the first substation was cited. The area they have selected is the most remote from residential areas in the city to create the least impact. The Trustees have granted an easement to MSC. The Planning Commission did raise some issues pertaining to planting. A landscape architect has been hired to work on the project. The Mayor expressed his desire to have something naturalistic that blends into the area.

(Ms. Molly Mackil was sworn in by the Mayor.)

Ms. Molly Mackil of Vandemark and Lynch reported they have sub-consulted with Rodney Robinson Landscape Architect (not present at hearing) who did a site

visit to look at the trees in the area. The red maple and river birch are native and present in the area. Security concerns on approach to the substation limited the tree selection. These trees are hardy and native to the area. They have staggered the trees in the 20 foot between the parcel line and the fence line to eliminate the possibility of people climbing the trees to access the substation. They concentrated on balancing security and the natural look of the area.

Mayor Klingmeyer said he was very interested in having more imagination used in creating the landscaping portion. He emphasized a more visual presentation of what is being proposed from the street level. He wants to see what the different species of trees look like on the drawing. *(The Board reviewed drawings that were adjusted to reflect the Planning Commission's comments.)*

Mr. Patterson said that the screen around the second substation would be covered by deciduous trees that grow to a height of 100 feet. The staggering of the trees is different from the existing substation. He added that MSC thought they were providing what was being asked of them by the Planning Commission, staggering trees using trees common to the area and illustrate same on the graphic diagram.

Mr. Athey said this Board is permitted to put conditions on any variance and we could approve this special exception variance tonight and attach conditions. This was confirmed by Mr. Akin. The applicant could be required to bring a revised visual landscape plan back to this Board.

Mr. Bloxom said the overall project is a matter of public safety and urgency to avoid interruption of services to the residents of the City of New Castle and they have no problem returning to the landscape architect for a more suitable diagram. The Mayor said he does not want to see what he is asking for be a negative in moving forward with the substation. Typically landscaping is done in the final stages of the project. The applicant anticipates the facility to be ready by Spring 2010 but the substation may be constructed by January 2010.

(Discussion about path forward and approval of a revised landscaping diagram followed.)

(Mr. Mike Alfree was sworn in by the Mayor.)

Mr. Mike Alfree, representing the Trustees of New Castle Commons, suggested on behalf of New Castle Commons that the Trustees will commit to assuring adequate landscaping is provided at the site thereby waiving any conditions on the application. Mr. Patterson is agreeable to Mr. Alfree's suggestion.

There were no questions from the audience.

Mr. Athey made a motion to grant the special exception for the construction of an electrical substation on the subject property and also grant a variance for the construction of an eight foot (8') high chain link fence (seven foot (7') fence plus one foot (1') of barbed wire) surrounding the substation as shown on the submitted plans, to be numbered however the Solicitor chooses. Mr. Akin seconded the motion which was approved by unanimous vote.

The motion was approved by unanimous vote.

The hearing was adjourned at 8:55 p.m.

Respectfully submitted,

Debbie Turner
Stenographer

Applicant Exhibits