

# Board of Adjustment minutes for November 24, 2015

## These are not verbatim

James Crellin – Called the meeting to order at 7:14 PM on November 24, 2015.

James Crellin - First-order business is the swearing in of our new member Mr. Brian Dolan

Shannon Carmine Burton - Good evening Mr. Dolan you're about to become a member of the Town of Milton Board of Adjustment and I would like you raise your right hand and repeat after me: I, Brian Dolan do solemnly swear to uphold the laws of the United States of America, the State of Delaware, and the Town of Milton to the best of my abilities, so help me God.

James Crellin – Roll call of members –

Dolan – present

Terner – present

Crellin – present

Carbone – absent

Dotterer - absent

Also present:

Shannon Carmine Burton – Solicitor

John Collier - Project Coordinator

James Crellin additions or corrections to the minutes

John Collier - Mr. Crellin one thing I would like to bring up to the board is that while it has been properly noticed for the agenda, the application that you have in hand is missing one component there is one facet that's been left off of the application and that was my fault we also need to address the density issue for these proposed lots. This application is in an R1 district and in the R1 district it requires 10,000 square feet per dwelling should the board see its way clear to grant the applicants request you would also be granting one dwelling per lot without regard to lot size.

James Crellin - Can we amend the agenda to reflect your statement?

John Collier - Yes sir that can be done.

James Crellin - With that correction I would like to call for approval of the agenda, all those in favor signify by aye.

Dolan – aye

Turner – aye

James Crellin - Agenda approved as amended

James Crellin - With that change noted I would like to open the public hearing.

The applicant, William B. Askew is requesting the following variance for 403 Pine St. also known as lots 5, 20, 21, and 22 of Section C, Conwell's Addition further identified by Sussex County Tax Map and Parcel # 2 – 35 – 14. 16 – 07. 00. The property is zoned R1 (Residential).

The applicant is requesting a reduction to the minimum lot width, minimum lot square footage, and density of a to 72.57 feet frontage and 7,257 square feet, 50 feet frontage and 5000 square feet with a residual lot of 7743 square remaining with the density of one dwelling unit per lot.

James Crellin - Mr. Askew would you like to say something in your behalf.

William Askew - I recently purchased the property with the understanding that I could subdivide it in looking at the lots in the neighborhood of similar size.

James Crellin - Any questions from the Board of Adjustment regarding this proposal?

Brian Dolan - I guess I have some questions I'm trying to figure out what exactly how the lots are going to be divided. Is one of the boundary lines going to be where item 21 is?

John Collier - Perhaps I can be of help Mr. Dolan, if you look at the plat which was included in your package. That would be this document, the one boundary line that's being proposed would actually split what's labeled is 21 that allows for required setbacks on the side yard for the existing dwelling. The other boundary line crosses a building that slated to be demolished and the remaining tract is to be everything to the left of the existing dwelling which is a portion of lot 21 and all of lot 20. Also included in your packets was a copy of the tax maps for the surrounding area. Indicated in green are all of the lots with 50 feet of frontage all lots within the subdivision have a minimum of 100 feet of depth. I included this document to give the members of the Board and indication of lot sizes in the surrounding neighborhood. This subdivision dates back to the mid to late 50s and at that time smaller lots were not uncommon. Records indicate the four individual lots were combined for tax purposes in 1987 when the Town moved out of the county zoning system and into their own.

James Crellin - I would like to state since it since there's no one else present there must not be any opposition.

John Collier - For the record public hearing was properly noticed and Mr. Askew complied with the required mailings. All of the required notifications have been made. There was one inquiry made at town hall by one of the notified folks with questions regarding the application. The individual was in favor of the application.

Janet Turner - I have a hard time understanding all the mapping. I just have a couple general questions. What are the changes if this property subdivided?

John Collier - Currently this property is deeded as a single lot of approximately 20,000 square ft. Should the Board grant the request three lots would be created one of 7257 square ft. one of 7743 square ft. and one of 5000 square ft., essentially the only change is the additional two lots with no change in overall area. Originally these were 4 parcels combined to one and now it is being proposed to create 3.

Janet Turner – Thank you.

Brian Dolan okay if I understand the Sussex County tax map other parcels on Pine street that have 50 foot frontage are 406 408 412 414 and 417.

John Collier - That's correct. Also, parcels to 210 and 212 Front on Bay Ave. Parcel 416 fronts on Cedar also on Cedar are 403, 405, and 407 and currently all those have 50 feet of frontage, some of these parcels are vacant some have dwellings.

Brian Dolan - And going over to Cedar Street same question the lots 403, 405, and 407 have 50 feet of frontage.

John Collier - That is correct sir.

Brian Dolan - So this would not be any substantial change to the neighborhood. Mr. Askew you purchased the property like this you did not create it. Is that correct.

William Askew - No I purchased it like this with the hope that it could be subdivided.

Jim Crellin - Are we prepared to render a decision?

John Collier - You will need to close the public hearing before you can go to business

Shannon Carmine Burton - if I may interject the board needs to consider the criteria for granting a variance that is set forth in subsection 220 – 83 of the zoning code. It is up to the applicant to establish he has met the criteria. I do not know if you want to go through this and ask the applicant these questions and you can make a determination based on his responses. There are several criteria that need to be addressed. These are things that need to be considered when you make a decision it's not necessary that they all be met.

Brian Dolan - Does Mr. Askew need to put this on those record, his feelings about each of these.

Shannon Carmine Burton - He should

Brian Dolan - Do you think it's an undesirable change to the neighborhood?

William Askew - Absolutely not.

Brian Dolan - Why do you say that?

William Askew - It conforms with what the neighborhood currently looks like.

Brian Dolan - Are there other homes on those 2 streets that have similarly configured lots.

William Askew – yes

Brian Dolan - is there another feasible method of doing this without doing this kind of subdivision.

William Askew - Not that I'm aware of.

Brian Dolan - So you're seeking a variance of from 75 feet of frontage to 50 feet or a 33% reduction in frontage on the one lot on Cedar Street a substantial change.

William Askew – It is exactly like the one across the street from it.

Brian Dolan - John are you saying the minimum required frontage is 75 feet.

John Collier - The minimum required frontage is 75 feet that is why the gentleman is here seeking a variance as each of his proposed lots would have less than 75 feet of frontage.

Brian Dolan - So the two lots on Pine Street one will have slightly more than the required frontage and one will be slightly less.

Brian Dolan – Do you think this change will adversely affect the neighborhood.

William Askew - I don't think so at all it will conform with the surrounding neighborhood.

Brian Dolan - You indicated this earlier but you purchased this property with this configuration. This is not a circumstance you created.

William Askew - I did not created I purchased it like that.

Janet Turner - In essence you purchased four properties.

William Askew - I purchased one property. It consisted of 4 lots.

Janet Turner - What is the approximate ages of the houses around it?

William Askew - The house I purchased was built back in the late 50s and most of them in the immediate area were built somewhere around the same time or the early 60s.

Shannon Carmine Burton - What is the density of the surrounding lots.

John Collier Each lot contains one dwelling whether it be 5000 or larger in square footage.

Shannon Carmine Burton - So that would be consistent with what the applicant is proposing.

John Collier – yes

Brian Dolan - Do we have any idea what the density is of lots 403 and 405?

John Collier - Those lots are 5000 square ft. and would be considered nonconforming under current zoning.

Brian Dolan - So that would be consistent with what is proposing on Cedar Street.

John Collier – yes

Shannon Carmine Burton - And the other lots would have an access of that 5000.

John Collier - one of the things that was made very clear to Mr. Askew prior to him requesting a variance was that the existing dwelling would have to meet all the required setbacks before the lot lines could be proposed. Hence the reasoning for taking the 4 original parcels and creating 3.

James Crellin - Are there any more questions?

Janet Turner - Does this board see a potential problem down the road with this matter?

James Crellin - I don't see any potential problems. I don't believe it will have a negative impact on the existing community.

Brian Dolan - In isolation that could have an adverse impact but when you take into consideration the other properties on the street. I believe that it's reasonable.

James Crellin - I would entertain a motion to close the public hearing.

Janet Turner - I move to close the public hearing.

James Crellin - all those in favor aye

Turner – Aye

Dolan – Aye

Crellin – Aye

James Crellin - The public hearing is closed.

Brian Dolan – I believe the requests are substantial and cause the most concern. I believe this is mitigated by the fact that the proposed parcels are consistent with others in the area. With that consideration I believe this should be approved.

Janet Turner - I believe within the overall framework of the surrounding dwellings etc. that there's nothing so adverse that the variance should be approved.

James Crellin - I also believe it should be approved there is no unnecessary hardship and it's consistent with the makeup of the community. So we have unanimously approved your proposal, sir.

William Askew Thank you.

James Crellin - We need a motion to adjourn.

Janet Turner - So moved

Brian Dolan – Second

James Crellin - all those in favor aye

Turner - Aye

Dolan – Aye

James Crellin - Meeting adjourned

7:40 pm