

**BOARD OF ZONING APPEALS**  
**April 1, 2010**

Mr. Wenger called the meeting to order at 7:00 p.m.

**A. Roll Call**

Present:

Mr. Mark Wenger  
Ms. Barbara Moody  
Mr. William Watkins  
Mr. Marvin Rhodes  
Mr. David Otey

Others Present:

Mr. John Rogerson, Senior Zoning Officer  
Mr. Brian Elmore, Dev. Mgt. Assistant

**B. Election of Officers – 2010 Calendar Year**

Mr. Rhodes moved to discuss new officer elections after the Board's new business, with a second from Ms. Moody.

In a unanimous voice vote, the Board moved officer elections until after new business (5-0).

**C. Minutes – November 5, 2009 & December 16, 2009**

**1) November 5, 2009**

Ms. Moody moved for approval of the minutes, with a second from Mr. Watkins.

In a unanimous voice vote, the minutes were approved (3-0; Abstain: Rhodes, Otey).

**2) December 16, 2009**

Ms. Moody moved for approval of the minutes, with a second from Mr. Watkins.

In a unanimous voice vote, the minutes were approved (4-0; Abstain: Otey).

**D. Old Business**

There was no old business.

**E. New Business**

**ZA-0001-2010 108 & 100 Chesapeake Avenue**

Mr. Rogerson presented the staff report and stated that the applicant intends to combine the two lots through a Boundary Line Extinguishment (BLE). He stated a home would be constructed on the combined lot. Staff did not believe any issues would result from the BLE. Staff would like the variance

setbacks recorded with the subdivision plat at the courthouse. The applicant is not the property owner, but will purchase the property if a variance is granted. After sending out adjacent property owner notices, staff heard from the owner of several neighboring, similar-sized parcels. The owner was concerned about protecting the character of the area, although he did not object. The owner was provided with case materials and will meet with the applicant. Property hardships were caused by adoption of the Zoning Ordinance. The lots were subdivided approximately 50 years ago.

Mr. Wenger opened the public hearing.

Mr. Robert Wiltshire, the applicant, stated that the home's dimensions would be 38.10' deep by 46' wide.

Mr. Rogerson stated that if the two lots were combined, the by-right building envelope would be 26' by 38'.

Mr. Rhodes asked why the applicant was not asking for a 12' variance from Chesapeake Avenue.

Mr. Rogerson stated that as a corner lot, the School Lane side would require another 10' setback, as the shorter of the two sides becomes the front. The requested variance is 2 1/2-3' larger than the home to allow the applicant margin of error.

Mr. Wiltshire stated he would be willing to relocate the existing gravel drive if a neighbor requested.

Mr. Wenger stated that no deck could extend beyond the granted variance.

Mr. Wiltshire stated that the home would only include a patio. He stated he had heard of no objections from the owner of 106 Chesapeake Avenue.

Mr. Wenger closed the public hearing.

Mr. Watkins stated he would be inclined to grant the variance.

Ms. Moody stated she would also be inclined to grant the variance.

Mr. Rhodes stated a hardship exists due to the building envelope. He stated the variance request was overly generous but he could support it.

Mr. Rogerson stated the variance grants a reduction of the setback from the School Lane Right-Of-Way (ROW) from 50' to 40', a reduction of the rear yard setback from 35' to 25', and a reduction of the side street setback from 25' to 12' for the two properties, contingent on the boundary line extinguishment.

Mr. Watkins moved to grant the variance, with a second from Ms. Moody.

In a unanimous roll call vote, the variance was approved (5-0).

**F. Matters of Special Privilege**

Mr. Rogerson stated the General Assembly approved removal of the hardship language from the BZA's powers and duties. The wording change loosens the minimum standard the BZA can use. Hardships no longer have to approach levels of confiscation.

Mr. Wenger stated the General Assembly had also approved language that BZA members conducting their official duty are no longer subject to lawsuits.

Mr. Rhodes stated the BZA was considering meeting with a judge to determine when the BZA could seek legal guidance.

The BZA discussed possible meeting times with Judge Powell.

Mr. Rogerson stated he would consult the County Attorney regarding the swearing-in of BZA members.

**A. Election of Officers (Continued)**

Mr. Rogerson opened the floor for nominations for Chair.

Ms. Moody moved to nominate Mr. Wenger for Chair, with a second from Mr. Watkins.

Mr. Rhodes moved to close the floor for nominations and elect for Mr. Wenger, with a second from Ms. Moody.

In a unanimous voice vote, Mr. Wenger was re-elected Chair (5-0).

Mr. Rogerson opened the floor for nominations for Vice-Chair.

Mr. Rhodes moved to nominate Ms. Moody for Vice-Chair, with a second from Mr. Watkins.

Mr. Otey moved to close the floor for nominations and elect Ms. Moody, with a second from Mr. Wenger.

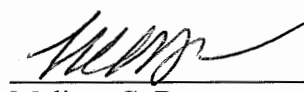
In a unanimous voice vote, Ms. Moody was re-elected Vice-Chair (5-0).

**G. Adjournment**

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



Mark Wenger  
Chairman



Melissa C. Brown  
Secretary