

DRAFT

A New Castle City Board of Adjustment Hearing took place on November 15, 2006 at 7 p.m. in the City of New Castle's Town Hall.

Present: Mayor John F. Klingmeyer
James F. Harker, City Solicitor
Bryan Pariseault, PE (representing David Athey, City Engineer)

Mayor Klingmeyer called the meeting to order at 7:05 p.m. He introduced City Solicitor James Harker and Bryan Pariseault representing City Engineer David Athey.

The Mayor read the Notice of Public Hearing that states, "An application has been filed by Theodore & Lisa Christopher for property located at 117 Stuyvesant Avenue, New Castle Avenue, New Castle, Delaware, Parcel Number 21-007.00-154, seeking a variance from the required minimum front setback, to permit the construction of a one story 18 foot by 30 foot addition to the rear of the existing residence. For the purpose of considering this application, the Board of Adjustment will hold a public hearing on November 15, 2006 at 7 p.m. in Old Town Hall, 2nd floor, located at 201 Delaware Street, New Castle, Delaware."

An affidavit of publication was published in the NewsJournal on 10/31/06. Mr. Bergstrom confirmed the property has been property posted. The fee of \$600 was paid but has since been waived by the City.

Mr. Harker feels the application is not stated correctly. The applicant is not seeking a front-yard setback, rather they are requesting extending a non-conforming structure into the rear yard under provisions of Section 230-9 of the city code. The diagram is clear to this end.

Jeff Bergstrom, Building Inspector, provided background on the application. Mr. DiAscanis applied for a building permit on 10/5/06. The original structure was built prior to the adoption of the current city zoning code requirement of a 30 foot front yard setback.

Mr. Pete DiAscanis approached the Board as representative of the construction firm. Mr. Harker directed several questions to Mr. DiAscanis. No opposition to this application have been received; there are other houses on the same street with similar additions that Mr. DiAscanis worked on. The addition is one story. He is not aware of any adverse impact to neighbors or adjoining properties if the structure is built. It is his belief that approval/denial of this variance would affect the owner's ability to further develop the property. Denial of the variance would create an unnecessary hardship on the property owner.

Mr. Bergstrom added this would comply if it were not for the front yard setback.

The Mayor opened the floor for comments; no one is in opposition of the request.

Mr. Harker informed that the zoning code in the city of New Castle was amended in 2005 to change the definition of non-conforming structure and what authority is

required in order to improve or extend a non-conforming structure. Ordinance 429 amended certain provisions, including Section 230-9, pertaining to non-conforming structures. He read the section of the ordinance aloud. He also referred to Section 230-57 which refers to general powers of the Board of Adjustment.

Mr. Harker made a motion to approve the application and grant the variance.

Mr. Pariseault seconded the motion. Mr. Harker informed that this is a technical violation that was created by a change in the zoning ordinance reducing the front yard setback from 30 to 25 feet. It does create difficulties for the homeowner. The addition is fairly small and does not violate any side yard or setback variances or requirements of the code, even after the addition is built. It only requires approval for alteration and expansion of the non-conforming structure. It will be in harmony with the statute and will not be injurious to the neighborhood and would result in difficulties for the owner if not granted. Roll call vote followed. Mr. Pariseault voted in favor because the zoning ordinance was changed after the structure was built, it is consistent with the rest of the neighborhood and he sees no problems with it. Mr. Harker voted in favor for the reasons he stated. Mayor Klingmeyer voted in favor citing the same reasons. The variance is approved by unanimous vote.

The hearing was adjourned at 7:20 p.m.

Respectfully submitted,

Debbie Turner
Stenographer