

**CITY OF DELAWARE CITY
BOARD OF ADJUSTMENT
NOTICE OF DECISION**

APPLICANT: Theodoros Xenidis
 225 Washington Street
 Delaware City, DE 19706

NCC TAX PARCEL NO. 22-009.00-017 (225 Washington Street)
PUBLIC HEARING DATE: August 26, 2008
DATE OF DECISION: September 15, 2008

REQUESTED: Applicant requested a side yard area variance for a proposed rear yard addition to be constructed 0.16 feet from the side yard lot line where Code requires a 7.5 foot side yard set back. The property involved is located at 225 Washington Street in the Historic District and is zoned R-1.

The Board of Adjustment may grant variances from the dimensional requirements of the City of Delaware City Zoning Code where it finds the applicant or property owner is experiencing exceptional practical difficulty in complying with the specific standards of the Zoning Code applicable to the subject property and where substantial justice can be done without substantial detriment to the public good and without substantially impairing the intend and purpose of any zoning ordinance, code, regulation or map.

The present application results from the applicant's desire to remove an existing rear addition and erect a 2 story addition on the rear of her property to provide additional living accommodations for his growing family including a family room and a master bedroom. The proposed addition is 22' x 24' and would aligned with the existing house 0.16 feet from the side lot line on one side and 21.8' from the other side lot line. The existing structure is a non-conforming use located 0.16 feet from the side lot line. The lot involved is of rectangular shape measuring 100 feet deep and 45 feet wide along Washington St. The property is zoned R-1 and is in the Historic District. The applicant explained that building the proposed addition along the side of the existing problem created interior traffic flow design problems in that the lack of adequate interior room to place a stairwell would create an awkward internal layout. Moreover, the applicant explained that designing the addition to attach to the side of the house would create an awkward roof line appearance that would not be in keeping with the design of other houses in the Historic Zone. In response to a citizen comment from neighbor, Don Gillespe, the applicant confirm that the proposed addition would not extend out on either side more than the existing 2 story dwelling.

The testimony and evidence indicated that proposed addition would be no closer to the impacted side lot line than is the existing structure is. In spite of Code set back requirements, many homes in the Washington St. Historic District have minimal or zero side yard set backs. The City Planning Commission voted to recommend granting the variance requested and the City

expressed no opposition to the application at the Board of Adjustment. The City Manager did state that the Historic Planning Commission (“HPC”) would not likely approve a addition that extended into the existing side yard and created an irregular roof line.

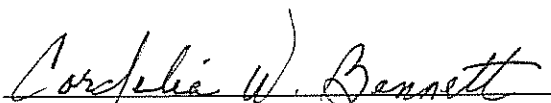
The applicant submitted a plot plan illustrating the location of the 22' x 24' addition and it's location 0.16 feet from the side lot line. He testified that additions of this nature, size and location are common to properties in this section of the City and that his size, design, and location will be in keeping with surrounding properties.

The City Manager reported that proper legal notice and posting of this variance hearing was duly made. No members of the public testified to the proposed variance other than Mr. Gilespe as aforesaid. It was noted by the applicant that he is the owner of the property immediately adjacent and most directly impacted by the variance request (219 Washington Street).

The Board votes to grant the requested dimensional variance. The Board found that the applicant is experiencing exceptional practical difficulty with respect to the dimensional variance: (1) due to the awkward internal traffic pattern and stair location; and (2) due to the awkward and historically inaccurate roof line that would be created if the addition were built on the side of the existing house. The dimensional variance is consistent with the existing structure as well as other properties in the area, is relatively minor in nature, and is generally compatible with surrounding property uses and other uses in the Historic District. Moreover, the harm to the applicant and the community as a whole if the variances were denied would be greater than the probable effect on neighboring properties if the variances are granted. The granting of the variances will not cause substantial detriment to the public good, nor will it substantially impair the intent and purpose of the Zoning Code..

Vote: 3–0 (Grant: Bennett, Stewart and Losco)

BOARD OF ADJUSTMENT OF
THE CITY OF DELAWARE CITY


Cordelia W. Bennett, Chairperson

NOTE:

This variance decision is neither a building permit nor a Certificate of Occupancy. Appropriate permits must be obtained from the applicable governmental agencies prior to construction or establishment of any use on the property. This decision should be kept in a safe place with the property deed. This decision may be appealed to the Superior Court by any person aggrieved by it within 30 days of its filing in the Office of the Board of Adjustment.