

A New Castle City Board of Adjustment Hearing took place on June 4, 2012 at 8 p.m. in the City of New Castle's Town Hall.

Present: Mayor Donald R. Reese
Daniel R. Losco, City Solicitor
David J. Athey, City Engineer

City Personnel: Jeff Bergstrom, City Code Official

Mayor Reese called the meeting to order at 8:10 p.m. Roll call was taken.

Mayor Reese read the Notice of Public Hearing that states, "An application has been filed by Claudette Sherwood, 1112 Wilmington Road, New Castle, Delaware, for property located at 1112 Wilmington Road, New Castle, Delaware, parcel number 21-007.00-216, seeking variances from the Code for front yard setbacks as follows: (1) to maintain the existing Wilmington Road 14 foot front setback; and (2) to reduce the existing setback from 25 feet to 9.5 feet on the Megginson Avenue frontage of the property to allow the expansion of premises for a new dining room, enclosed porch and deck.

For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Monday, June 4, 2012, at 8 p.m. in Old Town Hall, 2nd Floor, located at 2nd and Delaware Streets, New Castle, Delaware."

An affidavit of publication was published in the News Journal and the New Castle Weekly. Mr. Bergstrom testified the property has been properly posted. No complaints have been received by Mr. Bergstrom.

(Mrs. Claudette Sherwood and Mr. Daniel Koffler were sworn in.)

Mr. Koffler identified himself as a consulting architectural engineer retained by Mrs. Sherwood. The property is small, about 1,100 square feet of foot print, and faces Wilmington Road, 14 ft. from the property line to the curb that was reduced when Wilmington Road was widened. It is zoned R1. It is a corner lot with Megginson Avenue 50 ft. wide, 25 ft. to the center. The applicant is requesting to reduce the setback to 9-1/2 ft. to extend the dining room out (15 ft.) to be 35 ft. from the center line of the road to the proposed new addition. Megginson Avenue has very little traffic. *(Photos were shown of houses on Megginson Avenue to illustrate the sizes of other homes versus Mrs. Sherwood's home.)*

The applicant is proposing adding a small powder room and extending the existing enclosed porch. Side yard elevations face Megginson Avenue and do not create any encroachment.

Solicitor Losco asked if other properties are in total compliance with the 25 ft. setback requirement on Megginson Avenue. Mr. Koffler was unsure citing he did not survey them. He does not believe the addition of 15 ft. would seriously effect Megginson Avenue.

The existing one-story house is undersize to other homes on the block. In the rear of Megginson Avenue the homes are newer, are two-story with two-car garages. The front

setback was compliant to Code but the widening of Wilmington Road has caused a non-conformity.

A variance is unavoidable due to the configuration of the structure on the lot. (*Discussion about interior structure of the house followed.*)

It is Mr. Koffler's opinion that granting this variance will not give any special privilege to Mrs. Sherwood that would be denied to anyone else.

The depth of a new dining room towards Megginson Avenue would be 15 ft. This plan will allow for additional security for the children.

Mrs. Sherwood testified there are four (4) houses on her side of the street on Megginson Avenue. She has spoken to her neighbors on both sides of Megginson Avenue and across Wilmington Road and all are in favor and no opposition has been expressed. She has letters of support, but could not produce them at this hearing. She parks her vehicle on Megginson Avenue.

Mr. Athey questioned the definition of corner, rear and side lots. There are two front yards, Wilmington Road and Megginson Avenue. The rear yard is the narrower side of the two remaining areas. R1 zoning calls for 30 ft. on the front yard and 25 ft. for the rear yard. Mr. Bergstrom said this home was built prior to 1968 and was further narrowed by expansion of Wilmington Road.

The lot size is less than 7,000 square ft. There has been one (1) variance in the area over 20 years ago. There were no comments in support of or against this application.

The presentation portion of the hearing was adjourned and deliberations began.

Solicitor Losco acknowledges Mrs. Sherwood is trying to make improvements to her property. There is no problem with the front yard setbacks. She did not cause the expansion of Wilmington Road that shows exceptional practical difficulty. On the dining room side most of the discussion is irrelevant. The side yard setback on Megginson Avenue is deep (15 ft.) and significant. Typically variances should be minimal. The home is a small Cape Cod without a dining room. It is a reasonable request to install a dining room without giving the applicant any special privileges. She has approached her neighbors to get their approval and no one has appeared in opposition or communicated same with Mr. Bergstrom. It is a reasonable improvement to make. There is hardship present with not being able to build on the opposite side yard because of the 10 ft. setback. The applicant can't build to the rear due to the existing enclosed porch. The odd configuration where the house sits and the fact the rear yard is good but occupied directs her to use the side yard to make the improvements. He expressed some concern with the closeness to Megginson Avenue but because it is a low-traffic road and the neighbors support the application, he supports the application.

Brief discussion followed about landscaping to buffer the addition.

Mr. Athey is concerned with precedent. He recognizes from discussion the problems associated with the application and does not support the variance based on the criteria this Board uses.

Solicitor Losco said the proposed dining room is 15' ft. deep X 22' ft. long and the setback is the same as on the other side of the property. Low-traffic right of way and there is no opposition to the application. The house size is modest and does not currently have a dining room. The configuration where the house sits creates a practical difficulty and since most houses having dining rooms there is no special privileges are being granted.

Mr. Athey's rationale is that special conditions or circumstances exist peculiar to the land, and if this addition were being done on the Wilmington Road side he would agree. Special conditions have resulted from the actions of the applicant.

Solicitor Losco made a motion to approve the front yard setback variance. Mayor Reese seconded the motion. The motion was approved by unanimous vote.

Solicitor Losco made a motion to approve the side yard variance to go down to 9-1/2 ft. from Megginson Avenue for the reasons already stated. Mayor Reese seconded the motion. The motion was approved by a vote of 2 in favor and 1 against (Athey).

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

Respectfully submitted,

Debbie Turner

Debbie Turner
Stenographer

Exhibit #1 – Proposed plan