

**New Castle City Board of Adjustment Hearing**  
**September 25, 2013 -- 7:15 p.m.**  
**City of New Castle's Town Hall**  
**2<sup>nd</sup> and Delaware Streets**

Present: William J. Barthel, City Council President\*  
Daniel R. Losco, City Solicitor  
David J. Athey, City Engineer

City Personnel: Jeff Bergstrom, City Code Official

\*Mr. Barthel chaired the meeting in the absence of Mayor Donald A. Reese.

Mr. Barthel called the meeting to order at 7:22 p.m. Roll call was taken.

Mr. Barthel read the Notice of Public Hearing that states, "An application has been filed by Elizabeth Ellmore, 12 Janvier Avenue, New Castle, DE 19720 for a property located at 12 Janvier Avenue, New Castle, DE, parcel number 21-007.00-219 seeking a variance from the Code-required front yard setback in order to maintain the dwelling with covered porch 20.9 feet from the right-of-way line of Janvier Avenue.

For the purpose of considering this application, the Board of Adjustment will hold a Public Hearing on Wednesday, September 25 2013, at 7:15 p.m. in Old Town Hall, 2<sup>nd</sup> Floor, located at 2<sup>nd</sup> 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.

Lewis Pritzkur, counsel for the seller (Seeney estate), presented to the Board. Current title holder is Elizabeth Ellmore who has completed settlement. The house was built in 1950 and during settlement it was discovered the front setback along Janvier Avenue is in violation of front yard setback requirements by 4.1 feet. Deeds dating to 1947 were provided to the Board. None of the deeds reflected a survey being done. Pictures of the front of the house and at an angle along Janvier Avenue were shown. The building restriction line runs at an angle based on the survey provided. The plan for New Castle Manor showing building set back lines was presented. The lot is an odd configuration and the only problem is the 25 foot setback along Janvier Avenue.

Mr. Bergstrom testified the Code requirement for this district is 30 feet excepting lots developed prior to the change from 25 feet to 30 feet. There is no record of additions or modifications to the original structure. Mr. Pritzkur confirmed the house is the original structure.

The settlement attorney for Ms. Ellmore suggested the violation of original setback when the house was first constructed be cleaned up to prevent potential problems with securing title insurance and ensure market value is not impacted if she sells the property in the future.

Mr. Athey inquired about the odd property size and Mr. Pritzkur said to the best of his knowledge the oddness of the property has been in existence since the house was originally built.

No one was present to speak for or against the application.

**A motion was made by Mr. Losco to adjourn from the public portion of the meeting and enter deliberations. Mr. Athey seconded. Motion was approved.**

Mr. Losco cited exceptional practical difficulties like potential problems with securing title insurance, marketing problems associated with disclosing the encroachment, and the house does not harm the neighborhood or character of the neighborhood since it has been there since 1950.

Messrs. Athey and Barthel cited the same rationale in supporting the application.

**Mr. Losco made a motion to approve the application for the front setback variance at 12 Janvier Avenue as submitted. Mr. Barthel seconded. Motion approved by unanimous vote.**

The hearing was adjourned at 7:34 p.m.

Respectfully submitted,

Debbie Turner  
Stenographer