

**New Castle City Board of Adjustment Meeting Minutes**  
**October 8, 2018 – 6:30 p.m.**  
**City of New Castle Town Hall**

**Members Present:**   **Jimmy Gambacorta – Mayor**  
                              **Daniel Losco, Esq., City Solicitor**  
                              **David J. Athey, City Engineer**

Mayor Gambacorta opened the meeting of the City of New Castle Board of Adjustment public hearing at 6:30 pm.

Mayor Gambacorta stated that an Application has been filed by Nicholas J. Greto and Kathryn Gordeuk, (Owner and Applicant), 820 Washington Street, New Castle, DE 19720, for a property located at 820 Washington Street, New Castle, DE 19720, Tax Parcel No. 21-014.00-152, seeking a variance from the Front Setback requirement of §230-9 of the City’s Zoning Code so as to allow an expansion of the existing (8 foot wide) front porch which currently extends 14.5 feet into the (30 foot) required Front Setback along Washington and to construct an (8 foot wide) side porch along West Ninth Street which would extend from the existing structure to the property line.

Mr. Losco entered into the record a photograph of the property having been posted by Mr. Bergstrom, the affidavit of publication in the News Journal for this hearing 15 days prior to the hearing date, and also in the New Castle Weekly.

Mr. Greto was sworn in by Mr. Losco.

Mr. Brian McLaughlan, Esquire, on behalf of the Applicants, stated that Nicholas Greto and Kathryn Gordeuk are the owners of 820 Washington Street at the corner of West 9<sup>th</sup> Street, and that they wish to make architectural changes to the front porch and the construction of a new side porch along West 9<sup>th</sup> Street. He referred to the Exhibits attached to the Application.

Mr. McLaughlan noted that Mr. Greto included a narrative and photographs in the Application, and asked that they be made part of the Record of the meeting. Mr. McLaughlan added that he also brought a photograph that appears to be the same photograph submitted by Mr. Bergstrom. Mr. Losco stated that 12 exhibits of photographs of the front or side of the subject property are in the Record.

Mr. McLaughlan stated the Applicants would like to proceed with the direct testimony of Mr. Greto through attorney proffer, and Mr. Losco asked Mr. McLaughlan to proceed.

Mr. McLaughlan stated that Mr. Greto had been sworn in and if he was called to testify, he would testify that he and Mc. Gordeuk are the Applicants, the information contained in the Application was supplied by Mr. Greto and that it is true and correct to the best of their belief. The property is located in the R-1 zoning district, the residence was built in 1938, and to the best of their knowledge it was built according to the Zoning Code in force at the time it was built.

As a result of the enactment of the 1968 Amended Zoning Code, the current existing porch encroaches into the current 30’ front setback lines for both the front porch and the proposed construction of the side porch. The front porch is simply an architectural improvement to the existing porch and the alteration will not extend any further into the current setback or reduce the current front yard setback along Washington Street. Mr. McLaughlan added that the existing front porch is less wide than the existing

structure and there will be a small extension along the horizontal plane of its existing footprint to mirror the size of the building itself (*see Plot Plan, Exhibit A*). The side porch is a new construction which is a continuation of the front porch shown on the concepts sketch. The new structure along West 9<sup>th</sup> Street would encroach 8' into the existing property line setback up to the existing fence along the property. The new structure will not extend beyond the front of any existing structures located along West 9<sup>th</sup> Street, and that there will be an additional 12' 10" of open space between the new porch structure and the street. West 9<sup>th</sup> Street is a dead end street which limits traffic along that portion of West 9<sup>th</sup> Street.

The Applicants feel the addition of the porch along West 9<sup>th</sup> Street will provide additional screening and security to the entrance along West 9<sup>th</sup> Street into the residence. No property in the immediate vicinity complies with the setback requirements imposed by the Amended Zoning Code, and only one residential property is located on the 800 block of their side of Washington Street, which is immediately adjacent to 820 Washington Street. There is also a commercial property on the 800 block of Washington Street. The properties along West 9<sup>th</sup> Street on the Applicants' side of Washington Street extend somewhat beyond the existing fence along the Applicants' property, where the proposed construction will go. Properties across Washington Street consist of semi-detached properties, each of which has an enclosed porch abutting the sidewalk.

Mr. Losco asked if there were sidewalks in front of the Applicants' property on Washington Street or West 9<sup>th</sup> Street, and Mr. McLaughlan advised that there were no sidewalks in front of the Applicants' house.

Mr. McLaughlan continued that the improvements existing along West 9<sup>th</sup> Street will not be contrary to public interest since each of the existing structures along West 9<sup>th</sup> Street extends beyond the front yard setback requirements imposed by the Amended Zoning Code. The new structure will not extend beyond the front of such structures or beyond the existing fence on the Applicants' property. The Applicants feel the alteration along West 9<sup>th</sup> Street will not be detrimental to the public welfare. The immediate area is not suburban and the properties across the street are semi-detached residences.

There will be no safety issues impacted by the construction of the side porch because it will not extend beyond the existing structures adjacent to the property or the existing fence along the property. There is a full 12' 10" of grass that will exist from the outer edge of the property to the porch. The side porch is not adjacent to any other buildings in the area so there are no fire or safety issues presented by the construction. Ample room for the passage of air and light will remain between the porch and the street pavement and any other structures.

The Applicants believe that the literal enforcement of the setback requirements will deprive them of privileges that other people in the area are enjoying, such as the front porches that extend beyond the immediate setback lines. The conditions and circumstances are not the result of any action on the part of the Applicants, and in granting the Variance it will not convey any special privileges denied to others.

Mr. McLaughlan stated that a narrative that follows the proffer just made that includes references to Code paragraphs is attached to the Application. He referred the Commission to Exhibits C and D. Mr. Losco noted that the side yard fence was not clearly depicted in Exhibit D, and Mr. McLaughlan explained where the fence could be seen on Photo #5. Mr. Losco clarified that was the property line and how far out the side porch would extend. He also clarified there would be no additional structure in front of the existing front porch, and Mr. Greto stated that was correct.

Mr. Losco clarified that the front porch would not extend further toward the street. Mr. McLaughlan explained that with the implementation of the Amended Zoning Code the existing front porch became a non-conforming structure; however, it was his interpretation of the Code that when talking about "front

yard structures” in the R-1, if it was legally constructed at the time it is not considered a non-conforming use unless it is expanded into the setback. Mr. Losco clarified that the front porch is being replaced on the original footprint, and it will be bumped out right and left so it matches the width of the existing structure, and Mr. Greto stated that was correct. Mr. Losco also clarified that the side porch would run almost the entire length of the home, and Mr. Greto advised it would extend 23’ from the front 8’ back to the side door to create a wraparound porch.

Mr. Losco asked Mr. Greto if he affirmed that everything Mr. McLaughlin stated and testified to was factually correct and Mr. Greto stated that he did so affirm.

Mr. Losco asked how the Application adhered to the concept that variances should be minimal in nature, and Mr. McLaughlin advised that he and Mr. Greto discussed that issue, and they felt the size of the porch being requested is livable space and aesthetically compatible with the front porch. Mr. Losco asked if the Applicants had spoken with any of the neighbors about the Application, and Mr. Greto advised that he had not. Mr. Losco then asked Mr. Bergstrom if the City had received any communications either in support of or in opposition of the Application, and he advised there was no record of anyone expressing an opinion either for or against the proposed structure having been received.

Mr. McLaughlin noted that with respect to the size of the proposed structure, it is aesthetically pleasing, still leaves a substantial open space, and does not abut any other structures. Mr. Losco clarified that there is a 12’ 10” grass area between the edge of the side porch and the pavement. Mr. Losco also clarified that there are other properties that encroach to the same degree on side or front setbacks, and Mr. McLaughlin advised that the house immediately adjacent to the Applicants’ property on Washington Street is. With respect to the side yard, Photos #D5 and 6 show that those homes extend out up to and even a bit over the fence line. Mr. Athey asked what was across 9<sup>th</sup> Street from the Applicants’ property, and Mr. Greto advised it appears to be a single home that is set back behind high hedges. Mr. McLaughlin also stated that it was difficult to determine the exact nature of the structure across the street. Mr. Athey noted that it did not appear to have the same setback as homes on the same side of the street as the Applicants’ property, and Mr. McLaughlin advised that was correct. Mr. Athey asked what was farther down 9<sup>th</sup> Street on the right, and Mr. Greto advised it appeared to be the property of that existing home, an apartment building, a parking lot, and another apartment building. Mr. Losco asked Mr. Bergstrom if that was the same properties that were severely fire damaged, and Mr. Bergstrom advised that was correct, referencing Photo #6, and added that those properties were zero setback. He added there was a wide sidewalk as well. Mr. Athey clarified that there will still be 12’ 10” between the side porch and the pavement.

Mr. Greto advised that he and Ms. Gordeuk recently moved to New Castle and love the area and the town. He added that he and Ms. Gordeuk wanted to enhance the property to give it more of an historic feel.

Mr. Athey asked Mr. Bergstrom about the four homes at the end of the block on the left on 9<sup>th</sup> Street, and he advised there were three doubles and a rancher. He explained that the townhouses on the left were fire damaged and rebuilt, and got COs. During discussion, Mr. Athey asked if they were damaged and could be razed, would granting the zero setback variance set a precedence of zero setback and Mr. Bergstrom advised that they were rebuilt on the same footprint with elements of the structure.

Mr. Greto added that the fence was permitted and is directly on line with the homes on 9<sup>th</sup> Street, and since everything follows that line, they were asking for permission for the side porch to extend to that line. Mr. Athey clarified that the plan does not show the porch will abut the fence.

There being no comments or questions from the floor, Mr. Losco closed the hearing.

Mr. Losco noted that the front setback was simply replacing the existing porch with a period-appropriate porch that will be more attractive, will not be any closer to the street, is insignificant in terms of the variance, and he would support the request. He added that the side porch was more complicated; however, because the fronts of the townhouses match up to the fence line there is already a precedent in terms of having structures right to the property line on 9<sup>th</sup> Street. He did state that he still had an issue of whether variance is minimal in nature. However, he felt that the character of the area is such that it is not out of line; particularly since the townhouse encroachment is front yard. In summary, Mr. Losco stated that in this unique situation, where there are other non-conforming properties in the same block that have the same encroachment, he would support the Applicants' request.

Mr. Athey concurred with Mr. Losco's interpretation of the facts, noting that a porch of less than 8' is probably too narrow. He stated that due to the unique circumstances, he would also support the Applicants' request.

Mayor Gambacorta noted that he felt the construction on the house is appropriate and enhances the city and he supports the Applicants' request.

**Mr. Losco made a Motion to approve the front yard variance to expand the existing porch so that it runs the width of the building at the same distance from the street that it is currently, and also approve the side yard porch 8' right up to the property line as depicted on Exhibit A in the package received from the Applicant. Mr. Athey seconded the Motion.**

Mayor Gambacorta advised the Motion was called and seconded and asked if there was any additional discussion. There being no further discussion, Mayor Gambacorta called for a vote.

**On vote, the Motion was approved unanimously.**

**A Motion to adjourn the meeting at 7:04 p.m. was made, seconded and carried.**

Kathy Weirich  
Stenographer