

**CITY OF DELAWARE CITY
BOARD OF ADJUSTMENT**

NOTICE OF DECISION

APPLICANT: Norman H. Laws, III and Mary P. Laws
124 Clover Circle
Delaware City, DE 19706

NCC TAX PARCEL NO. 20-012.00-009
PUBLIC HEARING DATE: February 1, 2006
DATE OF DECISION: February 6, 2006

REQUESTED: Applicant requested a dimensional variance to erect a one room bedroom addition 13 feet from the rear lot line where the Code requires a 25 foot setback for their property at 124 Clover Circle, Delaware City, Delaware, NCC Tax Parcel No. 22-012.00-009.

The Board of Adjustment may grant a variance from the use requirements of the City of Delaware City Zoning Code where it finds the applicant or property owner is experiencing unnecessary hardship 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 subject property is currently improved with a detached single family residence in the Harbor Estates community. The rear of the property abuts a vacant lot owned by a now defunct corporation that developed Harbor Estates. Beyond that lot is the Army Corp. of Engineers Canal Reservation. The lot is approximately .15 acres with dimensions of approximately 57 feet wide by 90 feet deep. The house is situated on a slight angle at the center of the lot with the southeast rear corner approximately 29 feet from the rear property line according to the applicant's testimony. The applicant desires to build a bedroom addition for his elderly mother-in-law who requires full time care. The applicant confirms that the addition will not include a kitchen or bathroom but will merely be a bedroom having dimensions of 17.5 feet wide and 16 feet deep. The applicant points to unique circumstances in that the addition is a reasonable enhancement to his home that cannot be constructed at any other location without requiring more significant variances. For example, building the addition on either side yard would be impossible without reducing its size and still securing side yard setback and aggregate side yard setback variances. While the addition might be built at the western corner of the property, a rear yard set back would still be required and the bedroom addition would then adjoin the family's dining room resulting in devaluation of the

property.

No members of the public appeared at the hearing to comment on the application but the adjacent property owners (John and Olive Armstrong: 126 Clover Circle and Diane R. Kirk: 122 Clover Circle) both submitted letters of support for the application.

The City Manager confirmed that the City supports the grant of the variance requested due to exceptional practical difficulty associated with the shape of the lot in question.

The Board votes to grant the requested dimensional variance. The variance is consistent with the character of the area. The applicant's desire to make reasonable improvements to his property, combined with the shape of this lot and the placement of the existing structure, illustrates exceptional practical difficulty in complying with the Code. Finally, the harm to the applicant if the variance were denied would be greater than the probable effect on neighboring properties if the variance is granted. The granting of the variance 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 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.