

**CITY OF DELAWARE CITY  
BOARD OF ADJUSTMENT**

**NOTICE OF DECISION**

APPLICANT: Eldridge Ginther  
212 Hamilton Street  
Delaware City, DE 19706

NCC TAX PARCEL NO. 20-009.00-034  
PUBLIC HEARING DATE: July 25, 2006  
DATE OF DECISION: July 31, 2006

REQUESTED: Applicant requested dimensional variances to permit subdivision of a 45' by 100' building lot and erection of a second floor dwelling with 3 first floor garages. Specifically, applicant requested: (i) road frontage variance to permit 45' of frontage where 60' is ordinarily required; (ii) lot area of 4500 sq. ft. where 6000 sq. ft. is ordinarily required; and (iii) a front yard set back of 12' where the Code requires a 20 foot setback for the proposed lot property at 212 Hamilton Street, Delaware City, Delaware, NCC Tax Parcel No. 22-009.00-034.

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 a proposed corner lot in the Historic District fronting on Hamilton Street (45') and on Henry Street (100'). This lot is rectangular in size. The proposed structure is approximately 25' by 52' in size and would be located 12' from the Henry Street right of way. The proposed subdivision would also create a second lot 60' by 100' in dimension that conforms with Code lot area requirements. The Planning Commission unanimously recommended approval of the plan and the requested variances and specifically sought to preserve the proposed second lot facing Hamilton Street as a fully conforming 60' by 100' lot. The Historic Planning Commission has not yet approved final architectural plans for the structure.

The applicant pointed to the fact that this area of the City is mixed in terms of lot sizes. Other properties in this block have the same or small lot area and road frontage (some as narrow as 20' wide) and that houses in the Historic District commonly have front facades closer than 20 to the front property line; many of them zero set back lots. The unique circumstances in this case include the desirable effect of leaving the second building lot fully conforming in size and the fact that Code required lot area, set backs and street frontage in the Historic District vary widely making it reasonable to grant the variances requested. The proposed construction is an ordinary improvement to the applicant's property fully expected in this residential zone. Denial of the variance would leave an oversized 105' by 100 foot lot not common with surrounding properties.

No neighboring property owners appeared at the hearing to object or comment to the proposed variances.

The Board votes to grant the requested dimensional variances with conditions. Conditions include: 1. Full subdivision approval by Mayor and Council; 2. Historic Planning Commission approval of the building design; and 3. the "footprint" of the building to be erected shall not exceed 25' by 52', exclusive of incidental porch, window or threshold overhangs. The applicant's desire to subdivide and improve this oversized corner lot with an conventionally sized improvement approximately 25' by 52' in a manner consistent with the character of the area and surrounding properties illustrates exceptional practical difficulty in complying with the Code. The Board finds that the harm to the applicant 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: 2-0 (Grant: Stewart and Losco, Bennett absent)**

BOARD OF ADJUSTMENT OF  
THE CITY OF DELAWARE CITY

  
Cordelja 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.