

**CITY OF DELAWARE CITY  
BOARD OF ADJUSTMENT**

**NOTICE OF DECISION**

**APPLICANT:** City of Delaware City  
Delaware City Community Center, Inc.  
PO Box 4159  
Delaware City, DE 19706

**NCC TAX PARCEL NO.** 22-009.00-121  
**PUBLIC HEARING DATE:** November 28, 2006  
**DATE OF DECISION:** November 29, 2006

**REQUESTED:** Applicant requested a special exception for approval of a day care center use at the Delaware City Community Center property, 250 Fifth St., NCC Tax Parcel 22-009.00-121 per §46-16(i).

The Board of Adjustment may grant a special exception to permit a day care center in an R-1 Zone pursuant to Zoning Code §46-16(i) and §46-121(c) where, after public hearing, it is determined: 1. that a proposed use on a specific lot or parcel is reasonably necessary for the convenience and /or welfare of the public; and 2. that the proposed use on the lot or parcel involved is not detrimental or injurious to the neighborhood or the City. The Board may condition any such grant as the Board deems necessary to protect the health, safety and welfare of the neighborhood and the City.

The subject property is located in the R-1 zone and is owned by the City and a portion of it is leased to the Delaware City Community Center, Inc., a non-profit organization ("DCCC"). DCCC intends to sub-lease the southwest corner of the building to a day care center operator to provide funding for DCCC's programs and expenses. No new construction is proposed. The day care operator would comply with all state licensure requirements and would utilize an existing playground area on the site. The Planning Board has recommended approval of the special exception.

Testimony was presented by the City Manager to confirm that the proposed day care center use complies with the requirements of §46-16 (i), to wit: 1. At least one hundred sq. ft. of outdoor play space per child is provided; 2. Outdoor play space is or shall be fenced or otherwise enclosed on all sides and do not include driveways, parking areas, or land unsuited by other usage or natural feature for the children's active play space; and 3. The minimum lot area for each six children shall be the same as the minimum lot area requirement for each dwelling unit in the district in which the

use is located. The City Manager further testified that there is adequate parking for day care center staff in the rear of the building (off of 4<sup>th</sup> Street) and adequate room for drop off/pick up of children. The testimony established that while there are a few home day cares in the City, there are no commercial day care centers presently. Thus, the proposed use will serve the welfare and convenience of the community and is not injurious to the neighborhood. The City Manager further testified that after due notice, no complaints from the public were received on this application and no members of the public appeared at the Board of Adjustment hearing to make complaint as well.

The Board votes to grant the requested special exception. The Board determined that use reasonably necessary for the convenience and /or welfare of the public and that the proposed use is not detrimental or injurious to the neighborhood or the City.

**Vote: 3-0 (Grant: Bennett, Stewart, and Losco)**

BOARD OF ADJUSTMENT OF  
THE CITY OF DELAWARE CITY

  
Cordelia W. Bennett, Chairperson

**NOTE:** This special exception 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.