

**CITY OF DELAWARE CITY  
BOARD OF ADJUSTMENT**

**NOTICE OF DECISION**

APPLICANT: Alexander Giustizia  
4 Warfel Drive  
Delaware City, DE 19706

NCC TAX PARCEL NO. 22-010.00-077  
PUBLIC HEARING DATE: June 3, 10, 2008  
DATE OF DECISION: June 4, 2008

REQUESTED: Applicant requested two dimensional variance to erect a garage addition with second floor bedroom a family room addition on the southwest side of his property within 4.6 feet from the side property line (5 feet required by Code) and 17.2 feet from the front property line (20 feet required by Code). The property location is 4 Warfel Drive, Harbor Estates, Delaware City, Delaware, NCC Tax Parcel No. 22-010.00-077.

The Board of Adjustment may grant a variance from the area or dimensional requirements of the City of Delaware City Zoning Code where it finds the applicant or property owner is experiencing exceptional practical difficulty 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 testimony and record reveal that subject property is currently composed of a single family Cape Cod style residence on an irregularly shaped .13 acre lot. The existing house sits 13.2 feet from the front property line as its construction pre-dates the existing 20 foot front setback requirement of §46-31 of the Delaware City Zoning Code and represents a valid non-conforming use. The house currently has no garage. The proposed addition (including first floor garage and second floor bedroom without a bath) is 15 feet wide and 28 feet long and would be attached to the existing building on the southwestern side. It would lie 17.2 feet from the front property line and 4.6 feet

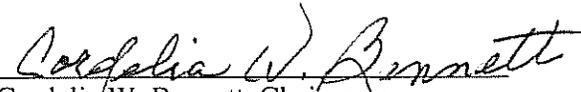
from the side property line. The applicant noted that this location coincides with an existing driveway and curb cut onto Warfel Dr. A new curb cut and driveway would be required if he placed the addition on the opposite side of the house. In addition, the opposite side is closer to the side property line thus providing even less room for the addition. With an in-ground pool in the backyard, there is no other practical location for an addition that would include a new bedroom accessible from the existing structure. The applicant's position is that with 19.6 feet of side yard available, the 5 foot setback creates an exceptional practical difficulty unique to this property significantly limiting his construction of an ordinary improvement to her home, i.e., the garage/bedroom addition. The applicant testified that the proposed addition would have vinyl siding that matches the existing dwelling. The applicant testified that he has injected approximately \$15,000 of improvements to the property (a foreclosure home he purchased in 2005) to date that has significantly improved the interior and exterior appearance of the home. He further testified that several other homeowners in this neighborhood have added garages to their properties so that this application is in keeping with the neighborhood.

The record reflected the fact that certified mail notice of the variance hearing was timely mailed to other area landowners. Adjacent landowners at 7, Warfel Dr., 9 Warfel Dr., 5 Warfel Dr, 2 Warfel Dr. And 6 Warfel Dr. all signed letters consenting to the proposed addition. These landowners included the owner of 6 Warfel Dr., James Paciona, who would be most directly affected by the presence of this addition 4.6 feet from the border of his property. No members of the public testified or attended the hearing and none submitted letters of objection to the Board. The City Manager advised the Board prior to the hearing that the City had no opposition to the application.

The Board votes to grant the requested dimensional variances with a condition. The variance front set back variance would locate the proposed addition a full 4 feet further away from the road as the existing structure and is minimal in nature. The side setback variance amounts to .4 feet (4.8 inches) less than the 5 foot setback required by Code. The proposed garage addition is consistent with the character of the area. The applicant's desire to make reasonable, expected and ordinary improvements to a property with no room to do so in the front or rear yard areas illustrates exceptional practical difficulty in complying with the Code in a manner consistent with the character of the area. Finally, the harm to the applicant if the variance were denied would be greater than the probable effect on neighboring properties if the variance were 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. The grant of variances in this case is conditioned upon the requirement that the roof line of the proposed addition match in style, and not exceed in height, the roof line of the existing residential dwelling on site.

**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.