

**CITY OF DELAWARE CITY
BOARD OF ADJUSTMENT**

NOTICE OF DECISION

APPLICANT: Helene A. Malgiero
311 Monroe Street
Delaware City, DE 19706

NCC TAX PARCEL NO. 22-006.00-018
PUBLIC HEARING DATE: July 24, 2008
DATE OF DECISION: August 12, 2008

REQUESTED: Applicant requested two dimensional variances to erect a 38' x 4' addition to her single family residence 16.9' feet from the side lot line where the Code requires a 20 foot setback and 0' from the front yard line where the Code requires a 20' setback for her property at 311 Monroe Street, Delaware City, Delaware, NCC Tax Parcel No. 22-006.00-018.

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 corner property that fronts Monroe Street on the southeast corner of Fourth Street. The lot is approximately 60 feet wide by 100 feet deep. The applicant and his architect, Frederick Yung, AIA, testified that the existing house is set back 0 feet from Monroe Street and represents a pre-existing non-conforming use. The applicant desires to build an addition attached to the southwesterly side wall of the existing home that will be approximately 4 feet wide and 38 feet deep. The applicant's representative testified that this addition allows the owner relocate an awkwardly situated interior stairwell that effectively dissects the usable internal floor area in half. This situation has grown worse over the years as the owner's family has grown. The stairwell is currently in disrepair and is sagging necessitating repairs. A second floor bathroom has become too small for their use; the second floor bedroom is similarly too small for normal use; the first floor family room is small due to the stairwell and prevents effective space planning for family use.

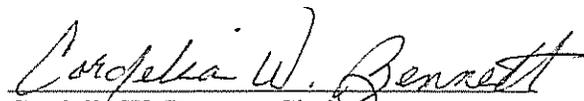
The proposed addition, like the existing house, would have a zero foot set back from Monroe

Street. The addition would be approximately 16' 9" from the side property line bordering Fourth Street. The applicant's representative stated that the improved internal flow that would result allows the owner to make to remain in keeping with other larger homes already existing in the Monroe Street block. The applicant points to unique circumstances in that an existing deck and deck foundation that pre-dates their ownership prevents locating the stairwell addition on the northeasterly side of the house. He further points out that as a corner property, there are no immediate neighbors who would be affected by the side yard variance requested. Thus, the closest neighbor is on the opposite side of Fourth Street so that well over 20 feet will separate the two neighbors. The applicant contends that such distance insures reasonable privacy between the two lot owners and the 4 foot reduction from the required 20 foot side yard setback is minimal in nature. No neighboring property owners appeared at the hearing or otherwise provided comment on the proposal. The applicant testified that he checked with his immediate neighbors and none objected to the application.

The Board votes to grant the requested dimensional variances. The variances are consistent with the character of the area. The applicant's reasonable desire to make necessary repairs and improvements to his home, and to remodel it to meet current family size and needs, as well as the placement of the proposed addition at the corner of Fourth and Monroe Street where it will be located far from any adjacent structure, illustrate 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.