

**CITY OF DELAWARE CITY
BOARD OF ADJUSTMENT**

NOTICE OF DECISION

APPLICANT: Whittaker Brothers (equitable owner)/ Dean W. and Brenda Miller
217 Bayard Street
Delaware City, DE 19706

NCC TAX PARCEL NOS. 22-009.00-095
PUBLIC HEARING DATE: November 24, 2009
DATE OF DECISION: December 4, 2009

REQUESTED: Applicant requested a special exception for two, one family semi-detached houses on one existing parcel located in the R-1 Zone under the Zoning Code of the City of Delaware City for New Castle County Tax parcels 22-009.00-095. Applicant's request is part of a plan to subdivide the properties into a total of two (2) residential lots.

The Board of Adjustment may grant a special exception to permit semi-detached houses in an R-1 Zone pursuant to Zoning Code §46-16(t) and §46-121(c)(12) 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 currently composed of one rectangular shaped parcel 80 ft. wide by 104 ft deep (.19 acres, more or less). As illustrated on plans submitted into evidence and incorporated herein by reference, the Board heard testify from the applicant that the overall proposal is to subdivide the parcel into two new parcels each of which will be 40 ft. by 104 ft. The Board was not asked to pass on any matter other than the special exception application and presumes for purposes of this decision (without making any finding or granting any variance) that all other bulk area regulations applicable to semi-detached homes in R-1 zones are satisfied by the proposed plans as represented by the developer. The property is under contract to be sold to builder Kevin Whittaker or his assigns.

The (Mr. Whitaker) applicant testified that neighboring properties in this area of Bayard

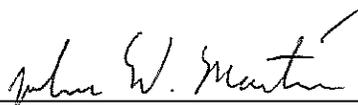
Street and adjacent roads reflect a mix of single family homes and semi-detached dwellings. The homes he plans to develop on the subject lot shall have driveways and one-car garages, thus minimizing public parking issues. The houses themselves will each be 20 ft. wide, will be set back 21 ft. from the public right of way, and will be 8 ft. from each side yard. Each home will contain 3 bedrooms and 1.5 baths. Each home will be vinyl clad, but otherwise will have exterior treatments that will provide an "historic texture" thus making it more compatible with the adjacent Historic District. The subject property itself, is not in the Historic District, however. The applicant testified that his "price point" for these homes would be approximately \$240,000 which he feels would enhance neighboring property values. He further testified that the 2 semi-detached home proposes would have minimal impact on the neighborhood in terms of traffic or congestion and would even be beneficial to neighboring property values since expected sales prices will exceed the appraised value of existing dwellings in the immediate vicinity.

Two neighboring property owners addressed the Board with questions concerning the proposed construction, but did not oppose it. The City Manager stated on the record that proper notice of the hearing was posted and that adjacent property owners were all advised by certified mail of this hearing. No letters of complaint or support were provided and no other members of the public appeared to comment on the application.

The Board votes to grant the requested special exception. The requested semi-detached houses amount to no more than one additional home than what would be permitted as a matter of right in an R-1 zone. The additional traffic and congestion caused by that single additional home would not likely create heightened safety issues. The Board finds that an important public service is addressed by approval of this application such that the proposed use is reasonably necessary for the convenience and/or welfare of the public. The applicant's proposed use is consistent with other properties in the area and thus is not detrimental or injurious to the neighborhood.

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

BOARD OF ADJUSTMENT OF
THE CITY OF DELAWARE CITY



John W. Martin, Chairperson

NOTE: This special exception is neither a building permit, subdivision approval 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.