

**BOARD OF ADJUSTMENT – CITY OF DELAWARE CITY**

IN RE VARIANCE APPLICATION OF )	
ROBERT PIERCE SR. )	Case No. 2012-01
FOR 209 JEFFERSON STREET, LOT 2 )	
DELAWARE CITY, DELAWARE )	
PARCEL NO. 22-006.00-066 )	

**DECISION OF THE BOARD OF ADJUSTMENT**

This is the decision of the Board of Adjustment (the “Board”) relating to the application of Robert Pierce, Sr. (“Applicant”), for a front yard setback variance from 20’ to 9’9” for that certain property located at 209 Jefferson Street, Delaware City, Delaware, Tax Parcel No. 22-006.00-066. For the reasons articulated by the Board at the hearing and as set forth herein, the variance application is **GRANTED**.<sup>1</sup>

A. Background

Applicant desires to construct an improved porch/sunroom on his property (the “Proposed Porch”), which will extend approximately three feet beyond the existing porch. The Delaware City Code requires a 20’ front yard setback in the R-1 District. Del. City Code § 46-31. Because the Proposed Porch will violate the R-1 setback requirement, Applicant needs a variance before beginning construction on the project.

Applicant properly submitted building plans as required by applicable codes. Because the property is located in a historic area, Applicant submitted the plans for the project to the Historic Preservation Commission, which provided its approval for the project on April 18, 2012. As required by Code, Applicant also submitted the application to the Delaware City Planning Commission, which approved the application at its meeting on May 7, 2012.

The Board scheduled the variance hearing for the application on May 29, 2012 at City Hall (the “Variance Hearing”). Notice of the Variance Hearing was posted on May 8, 2012. Hearing Exhibit A. In addition, certified mailing receipts of letters notifying the neighboring property owners of the Variance Hearing were entered into the record as Hearing Exhibit B. The Board found that all applicable notice requirements were satisfied in advance of the Variance Hearing.

B. The Testimony

At the Variance Hearing, Applicant testified that the Proposed Porch would improve the neighborhood. Applicant testified that he would use colonial style posts on the porch to blend into the historic surroundings. Applicant further testified that on the

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<sup>1</sup> BUCHHEIT, PARETS, AND WALTON (all members of the Board) participated in the hearing and voted in favor of the application.

Third Street side there is a historical home, and that his property is one house in from the corner lot, and across the street is a house of a similar style – so his variance will not impact neighboring properties. Applicant also noted that the dimensional change from his existing porch (as demonstrated by pictures – Hearing Exhibit C) is minimal because the new extension will only extend three feet further from his current porch. Moreover, Applicant noted that the only reason that a variance is required is because the City owns a strip of land between his house and Jefferson Street. If the City did not own the strip of land in front of his house, he would have more than enough room to construct the Proposed Porch without the need for a front yard variance.

Following questioning by members of the Board, Applicant completed his presentation. No person appeared or presented any opposition to the requested variance.

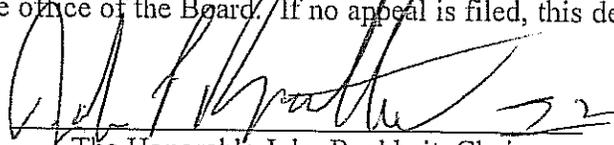
C. Decision

The Board voted unanimously to grant the variance requested by Applicant, conditioned on Applicant adhering to the plans submitted to the City. The plans are included in the hearing record as Exhibit A, and are attached hereto and are incorporated into this decision by reference. Specifically, upon adoption of the reasons for the grant of the variance stated by the Solicitor, all members of the Board held that:

The nature of the zone in which the property lies and the character of the immediate vicinity will not be impacted by the variance sought. The Board opined that the Proposed Porch would improve the surrounding neighborhood home values and would be constructed in a manner as to not impact the historical nature of the area. The Board further held that the dimensional change is minimal because the Proposed Porch will only extend three feet beyond the existing porch. In addition, the Board found that the property contained unique components because Delaware City owns a strip of land in the front of the property. While the Delaware City lands are maintained by Applicant and create a street buffer, these lands cannot be included as part of the setback calculation. If these Delaware City owned lands could be included by Applicant, no setback variance is required. Based upon these factors, and the specific circumstances presented by Applicant, the Board held that Applicant has established exceptional practical difficulty unique to the property, and the requirements for a variance under the Delaware Code and the Delaware City Code have been satisfied.

D. Conclusion

Any appeal of this decision must be filed within thirty (30) days of the filing of this decision with the office of the Board. If no appeal is filed, this decision will be final in thirty (30) days.



The Honorable John Buchheit, Chair  
On Behalf of the Board