

New Castle City Board of Adjustment Meeting Minutes
Meeting via Zoom
January 20, 2021 – 6:30 p.m.
City of New Castle

Members Present: Mayor Michael J. Quaranta
Daniel R. Losco, Esq., City Solicitor
David J. Athey, City Engineer

Also Present: Jeff Bergstrom, City Building Official & Fire Marshall

Mayor Quaranta convened the meeting at 6:33 pm and introduced the Board members.

Mayor Quaranta read the Application.

An application has been filed by Francis J. DiSabatino and Francis J. and Patricia DiSabatino, owners of 18 Baldt Avenue, New Castle, Delaware 19720, for a property located at 22 Baldt Avenue, New Castle, Delaware, 19720 Tax Parcel No. 21-007.00.067, zoned Residential – R1 seeking variances from §230-57 C and D of the zoning code relating to the 8-foot side yard and 30-foot front yard setback restrictions and the 25% Maximum Building Bulk standards; permission, to the extent necessary, to expand a non-conforming structure; and for a reasonable modification of the City’s Zoning Ordinance in accordance with the provisions of the Americans With Disabilities Act.

Mr. Brian McLaughlin, Esquire, representing the Applicant, stated that he requested the Board accept a Sworn Statement of Mr. Francis J. DiSabatino for the Record.

Mr. Francis J. DiSabatino and Ms. Rosalyn Keesee, RA, LEED AP, and Principal of Design Collaborative, Inc., Architects, were sworn in by Mr. Losco. Mr. Losco noted for the Record that the Application was published in the News Journal and the New Castle Weekly, properly posted, and affidavits of publication and photographs of the posting are part of the Record.

Mr. McLaughlin explained the purpose of the Application is to install an ADA compliant wheelchair ramp, a sheltered porch, and a driveway leading up to the ramp; and to add an addition to the home to make accommodations for the care and comfort of Mr. Gabriel DiSabatino. The addition will minimally exceed the 25% maximum lot coverage restrictions.

Mr. McLaughlin explained the distinct properties of the lot, noting that the existing footprint of the home is virtually entirely outside the setback lines. The plans for the home are compatible with the character of the area.

Mr. McLaughlin reviewed the eight Exhibits attached to the Application.

In response to a question from Mr. Athey, Ms. Keesee explained the Street Wall is the average front of the buildings on the street taken from the aerial view of the street. It was also noted that the majority of homes on Baldt Avenue intrude on the existing setback line.

During remodeling the existing front porch and steps and the side chimney will be removed, which will reduce the existing encroachment. The existing home has 1 Bedroom/1 Bathroom on the first floor and an open room with no door or bathroom on the second floor. The proposed configuration will make the home wheelchair accessible and create a bedroom on the second floor to accommodate a caregiver.

Mr. Losco noted that the Applicant asks for a variance from the 8' side setback; however, the plans do not show a violation of the side setback. Mr. McLaughlin explained that variance was requested in the event the hardscape driveway required approval since it does encroach into the 8' side setback. Mr. Bergstrom stated that the paved area would not require a variance, and therefore, no variance for the 8' side setback is required.

Mr. Losco also noted that pursuant to his interpretation of the Code, because the "use" of the property is not nonconforming, the Applicant also does not need Board approval to comply with §230-57 D of the zoning code, which states the Board has the authority to authorize "structural alterations resulting in an enlargement or extension of a nonconforming structure or use." (*emphasis added*) During discussion, Mr. Losco further explained his understanding of the Code is that the particular authority of the Board to authorize the expansion of a nonconforming structure applies when the use of the structure is the nonconforming item.

Mr. McLaughlin opined that the only variances the Applicant needs in connection with the addition to the property are an area variance and a bulk area variance. Mr. Losco concurred.

Mr. Athey noted that the removal of the chimney will not alter the 5'5" encroachment of the 30' front yard setback along Eleventh Street and asked if a variance was necessary. Mr. Losco explained that because it is a corner lot there are two front yards and the existing structure is nonconforming because it encroaches on both 30' setbacks. The 30' front yard setbacks will be encroached by the addition along Eleventh Street and by the side front porch along Baldt Avenue, and therefore, a variance is necessary.

Mayor Quaranta clarified the footprint of the existing structure is 949 square feet and it will be increased to 1,737 square feet with a sheltered front porch of 144 square feet. The Bulk Density is being increased 4.4% over the maximum 25% to 29.4%, which includes the residence, the front porch and the existing garage.

In response to a question from Mayor Quaranta, Ms. Keesee explained they are working on landscaping and that water runoff will be addressed by a Civil Engineer to ensure water runoff fully complies with ordinances and regulations. Mr. DiSabatino explained all water runoff will be directed to the street to mitigate water retention on the property. Mr. DiSabatino further noted the exterior of the residence will be completely new, including new windows, doors, siding and roof. Mr. DiSabatino also noted that the property is being renovated for the express use of Mr. Gabriel DiSabatino and will not be utilized by any program managed by a non-profit or the State as a group home.

Mr. Bergstrom noted the property is in the flood plain and the footprint will be less than double in size and that he had no concerns about drainage.

In response to a question from Mayor Quaranta, Mr. McLaughlin reiterated that mass of the proposed residence would be 29.4%, which is 4.4% over the approved maximum of 25%. The Mayor asked if the proposed addition could be reduced to comply with the approved maximum mass of 25%. In response, Ms. Keesee explained that reducing the mass was considered; however, any reduction would reduce the useable area available for Mr. Gabriel DiSabatino's personal use. She added that the goal was to provide a tasteful addition that would service Mr. DiSabatino's needs and also make the home marketable in the future.

In conclusion, Mr. McLaughlin requested that Mr. Francis DiSabatino's sworn declaration be included as part of the Record.

In response to a question from Mayor Quaranta, Mr. Francis DiSabatino stated that he had not reached out to neighbors advising them of the proposed plans for the residence; and the Mayor encouraged him to do so.

Mr. Francis DiSabatino explained that in addition to Mr. Gabriel DiSabatino, a full-time caretaker would live in the house. In addition, State aides would assist with transportation as necessary.

Mr. Losco made a Motion to include Mr. Francis DiSabatino's sworn statement as well as all exhibits attached to the Application in the Record. The Motion was seconded by Mr. Athey. On vote, the Motion was unanimously carried.

Board Comments/Questions

Mr. Athey asked for clarification of the proposed second floor. Mr. McLaughlin explained the second floor will be expanded; however those plans are still in progress. Ms. Keesee explained the second floor will extend over the existing footprint and will extend back over the proposed sitting room addition; however it will not extend over the new porch area or the proposed one-story addition for the new first floor bedroom. Mr. Athey expressed his concern that the proposed view from Eleventh Street will be a significant change from the existing residence. Ms. Keesee explained the roof pitch and noted that the proposed addition area is currently planned to be 2-story with a modest slope on the back side. The general aesthetic from the front will be maintained. The current plan is a 2-story addition, but a shed dormer on the back can be considered.

In response to a question from Mr. Losco, Ms. Keesee explained she did not have the exact square footage of the proposed 2nd floor living space, but that it would not be equal to the entire footprint of the first floor.

Mayor Quaranta expressed his concern that the mass and scale of the proposed residence should be characteristic of the neighborhood. Mr. Athey reiterated his concern of how the side of the residence will look. During discussion, it was noted that there are a number of full two-story homes in the neighborhood as well as the bungalow style.

Mr. Bergstrom reminded the Applicant's architect that a substantial addition would not be allowed to a property in the flood plain. Further discussion included how the approved size of the proposed residence would be calculated.

Mr. DiSabatino noted that the plans have not yet been finalized and the Board's concerns can all be addressed to ensure a permit is approved.

Public Comment

Mr. Michael Platt

Mr. Platt expressed his concerns of water runoff to 11th Street, opining that the catch basin is insufficient which will potentially cause flooding in his yard. Mr. Bergstrom noted that a Civil Engineer will be employed by the Applicant to do a Lines & Grades Plan which will address water runoff issues; and stated that Mr. Platt would be able to review the plans prior to a Permit being issued. He added that the existing storm water conveyance system is inadequate to manage stormwater runoff. Mr. Platt suggested that drainage be split to both 11th Street and Baldt Avenue, and Mr. Bergstrom agreed that water can be directed to both streets.

Mr. Philip Gross

Mr. Gross expressed his appreciation for the proposed improvements to the property, and made a number of suggestions:

- That a floor plan and elevation drawings be submitted to the Board; specifically showing if the second floor will include a kitchen area for the caregiver.
- That the subject property have a similar silhouette as 105 Baldt Avenue, but deeper to accommodate the addition.

A Motion to conclude the Hearing and move to the Business Meeting was made, seconded, and unanimously approved.

Business Meeting

Mr. Athey noted that the house was built prior to the establishment of the zoning code and that because it is a corner property it has unique circumstances; adding that in general, the variances required and the proposed footprint have both been kept to a minimum. He added that having floor plans and elevations would have been helpful. Mr. Athey also noted that the mass of the structure and drainage issues, although a concern, may self-correct after the Engineer has completed his Plan. Mr. Athey stated that he would support the requested variances.

Mayor Quaranta thanked the Applicant for his willingness to invest in the property. He reiterated his concern about the size of the proposed structure, especially of the second floor, and the silhouette and recommended that the architect be as creative as possible to maintain the style

common within the neighborhood. He noted that water mitigation is also a concern and expressed his appreciation that a Civil Engineer will be engaged; recommending that he work closely with Mr. Bergstrom. Mayor Quaranta also expressed his appreciation that the residence will be for Mr. Gabriel DiSabatino's personal use and will not be used as a State or non-profit group home. Mayor Quaranta stated that he would support the requested variances.

Mr. Losco pointed out the uniqueness of the property deserves consideration, noting that as a corner property it has two 30' front yard setbacks, and that the existing structure is set almost entirely outside the permitted building envelope. He further added that:

- The proposed expansion will not protrude any further than the existing structure;
- A two-story property is not out of character for the neighborhood;
- The proposed additional square footage is not excessive; and
- The bulk area variance is only 4.4% over the maximum is not excessive.

Mr. Losco added that there are concerns relative to water runoff, but deferred to Mr. Bergstrom and the fact that there are two catch basins in the area and a Civil Engineer will need to mitigate and minimize the impact of any expanded impervious coverage and direct water runoff toward Baldt Avenue. He also noted that elevations would have been helpful and concurred with Mr. Athey that the flood plain expansion of 49% will curtail any real massive development. Mr. Losco stated he would support the variances for the front setbacks of 30' and the bulk area variance of 4.4% over the maximum permitted.

Mr. Losco made a Motion to approve the Applicant's request for two variances of the 30' front yard setbacks and the bulk area variance of 4.4% over the maximum permitted. Mr. Athey seconded the Motion and on vote, the Motion was unanimously carried.

There being no further business to discuss, Mayor Quaranta called for a Motion to Adjourn.

Mr. Athey made a Motion to adjourn the meeting. The Motion was seconded by Mr. Losco. On vote, the Motion was unanimously approved and the meeting adjourned at 7:57 p.m.

Respectfully submitted,

Kathy Weirich
Stenographer