

*City of Alexandria, Virginia*

## MEMORANDUM

DATE: FEBRUARY 21, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: JAMES K. HARTMANN, CITY MANAGER 

FROM: EILEEN FOGARTY, DIRECTOR, PLANNING AND ZONING 

SUBJECT: 301 LAVERNE AVENUE

**ISSUE:** Reconsideration of the denial of a Special Use Permit for development of a substandard lot.

**RECOMMENDATION:** That City Council receive this report.

**BACKGROUND:** City Council, on January 10, 2006, voted to reconsider their action of December 17, 2005 denying a SUP for development of a substandard lot.

On November 1, 2005, the Planning Commission recommended denial of the SUP. Planning staff recommended denial of the SUP, finding that development of this corner lot of only 4200 square feet is not in character with the neighborhood. A corner lot in the R-2-5 zone is required to be 6,500 square feet in area, or 2,300 square feet less than required. In addition, development of the lot would require four variations, including variations to front and side yard requirements and the corner vision clearance setback. The Planning Commission found that the proposed development would impair an adequate supply of light and air to the adjacent properties, would somewhat impair the established property value in the surrounding area, and would not be compatible with the existing neighborhood character.

Council's decision on January 10, 2006 to reconsider their action in denying the SUP was based on a concern that a consequence of denial of the SUP would be that the density inherent in the property in question could be used as an addition to the neighboring property, resulting in a very large home in the middle of many small homes. Staff was directed to work with the applicant on a plan that Council can review that would be consistent in scale with what an addition to the neighboring property would be and that also works to maximize the light and air on the corner of that property. The light and air at that corner being one of the most significant concerns. Another concern was whether or not the size of the house could be reduced slightly.

Subsequent to Council's January 10 action on this request, staff met with the SUP applicant on two occasions, once to discuss the guidance provided by Council, and a second time to review a set of options prepared by the applicant. Staff also met with a group of neighbors who were opposed to granting of the SUP, to get feedback on the request and Council's latest guidance. These neighbors continue to be opposed to the SUP.

Staff has prepared an analysis of what could be built on the adjacent property if the subject property were combined with it. Staff has also reviewed the four options for development of the subject property prepared by the applicant in response to Council's action to reconsider the request. This analysis is shown on the attachments to this report, along with a summary table showing the options compared to the original proposal and possible addition.

In summary, the applicant's proposal:

- Constitutes a corner lot of 2,300 square feet less than required
- Still requires 3 to 4 variations to front setbacks as well as side lot line and vision clearance setbacks
- Allows a single family dwelling ranging in size from 1,520 to 1,558 square feet

For an addition to the adjacent house:

- No SUP would be required since the combination of the properties would constitute a standard corner lot of greater than 6,500 square feet
- All applicable setback requirements would be met, including front, side and vision clearance
- A greater amount of open space would be retained
- The maximum allowed addition would be 1574 square feet.

In regard to questions posed by Councilman Macdonald on the subject request, the following information is provided:

1. Staff's original recommendation to the Planning Commission to deny the request was based on a thorough analysis of the facts of the case.
2. Staff's recommendation to deny the SUP is consistent with Section 12-402(C) of the Zoning Ordinance.
3. No new information has come to light to question the validity of Planning and Zoning's recommendation.
4. If an addition were to be built on this property, as part of the adjacent home, the home and addition together could comprise 45% of the total lot area. The two lots combined would comprise 7200 square feet, thus allowing a total floor area of 3240 square feet. The existing home at 303 Laverne comprises approximately 1666 square feet, thus leaving approximately 1574 square feet to be built as an addition.
5. According to the Chairman of the Planning Commission, the Commission considered all of the relevant facts and the Zoning Ordinance when they recommended denial of this SUP on November 1, 2005.

6. According to the City Attorney, the City's Planning Department and Planning Commission properly and fairly reviewed this application, as required by the zoning ordinance. As with review of the majority of zoning applications, the zoning ordinance provides for the exercise of substantial discretion in the decision making process, and thus in the resulting decision, which is reserved to council.
7. Section 12-402(C) requires that "City Council, upon consideration of the special use permit, finds that the proposed development will not unreasonably impair an adequate supply of light and air to adjacent property, will not diminish or impair the established property value in the surrounding areas, and will be compatible with the existing neighborhood character." Under this language, a substandard lot SUP must be denied if Council reasonably determines that the application fails to comply with any one of the three criteria.
8. The threat of a lawsuit is never a valid or sufficient reason for the grant or denial of a zoning application. However, in the typical zoning application, the decision making process often requires the council to strike a balance between competing policies and interests. A compromise, if achievable consistent with the public interest, often represents a reasonable policy decision, and incidentally avoids needless litigation.
9. In applying the criteria set forth in Section 12-402(C), Council may consider the zoning impacts of alternative development scenarios which are reasonably probable of achievement and which do not require SUP or other discretionary approval. If such alternative scenarios would adversely affect the neighborhood values protected by the substandard lot SUP regulations to a greater degree than the SUP scenario, then Council is authorized to consider the likely impacts of such alternative scenarios in determining whether or not the SUP scenario meets the criteria in Section 12-402(C).

**ATTACHMENTS:**

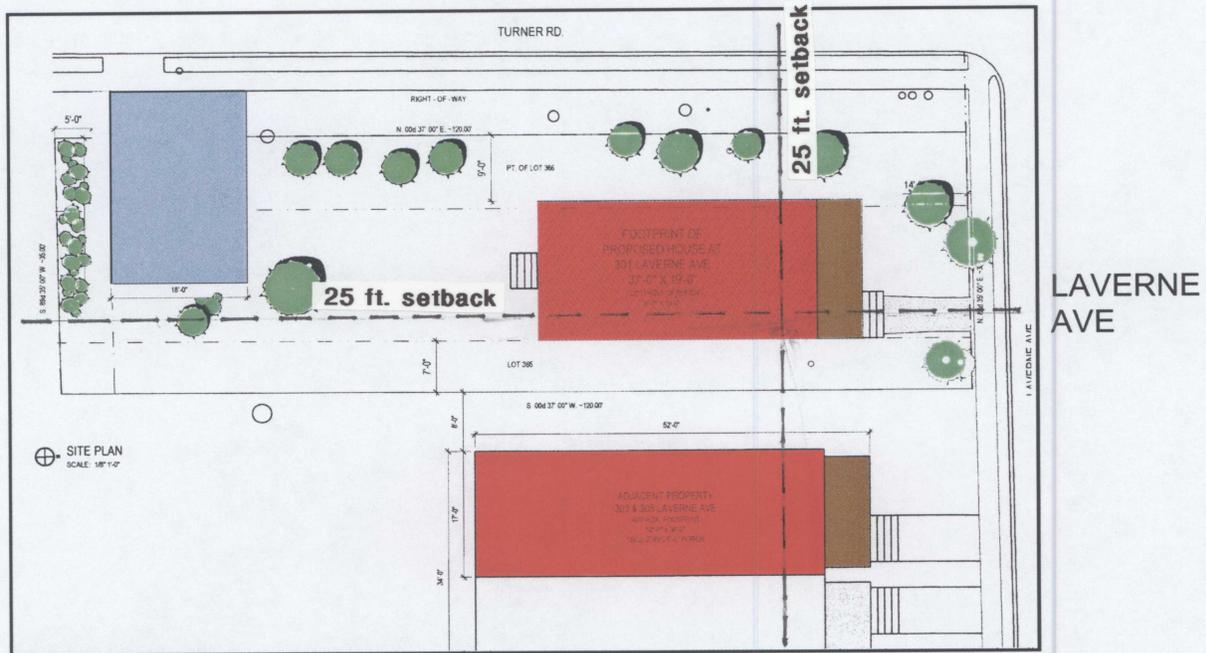
- Attachment A. Proposed Development Under SUP 2005-0014
- Attachment B. Addition to Existing Home at 303 Laverne
- Attachment C. Option 1
- Attachment D. Option 2
- Attachment E. Option 3
- Attachment F. Option 4
- Attachment G. Summary of Options

**STAFF:**

- Richard Josephson, Deputy Director, Planning and Zoning
- Ignacio Pessoa, City Attorney

**ATTACHMENT A - PROPOSED DEVELOPMENT UNDER SUP 2005-0114**

**TURNER ROAD**



The above illustration shows development of the subject property as proposed by SUP 2005-0114.

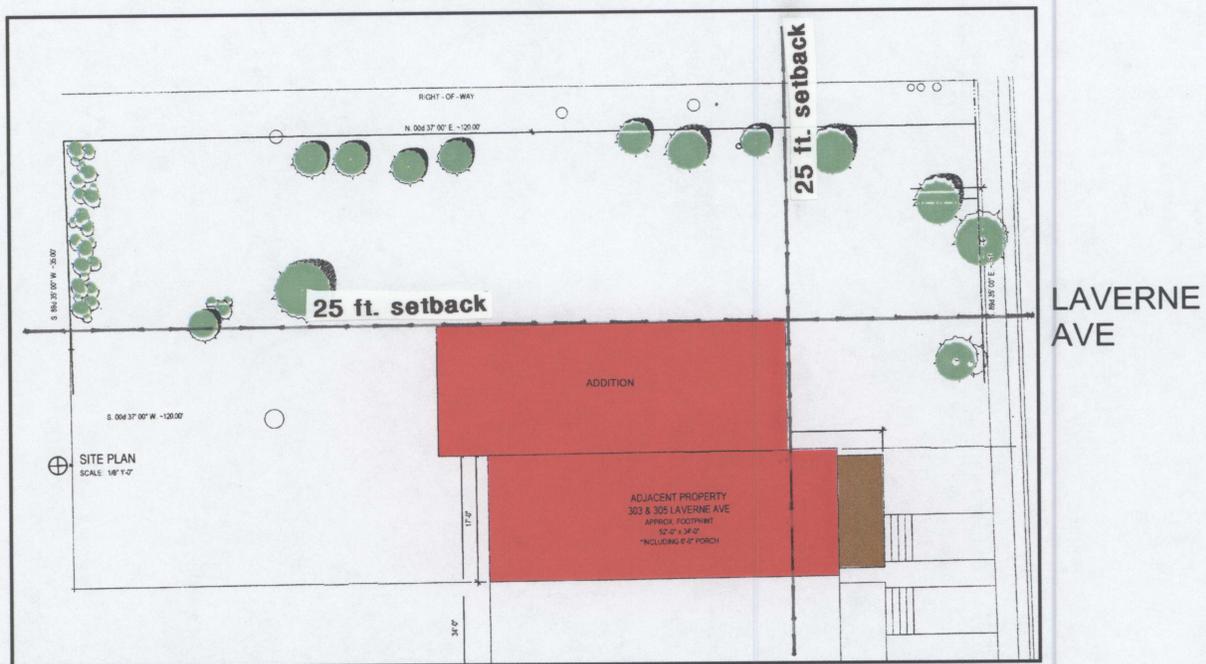
***Development of the property requires approval of the SUP AND approval of 4 variations to front and side setbacks and vision clearance setback***

The proposed house has the following characteristics:

|                              |   |                           |
|------------------------------|---|---------------------------|
| Dimension of house:          | 37 ft. by 19 ft.  |                           |
| Front Porch                  | 6.5 ft by 19 ft.  |                           |
| Total GFA of two story house | 1530 SF   |                           |
| Front Setback (Laverne)      | 25 feet required, 14 feet provided  | <b>variation required</b> |
| Front Setback (Turner)       | 25 feet required, 9 feet provided   | <b>variation required</b> |
| Side Setback 1:3             | 8.34 feet required, 7 feet provided   | <b>variation required</b> |
| F.A.R.                       | 0.45 allowed, .36 provided  |                           |
| Height                       | 35 feet allowed, 25 feet  |                           |
| Vision Clearance             | 100 feet back from intersection of centerlines of streets required                  | <b>variation required</b> |
| Parking                      | 2 spaces required; 2 spaces provided in pad with full access width from Turner Road |                           |

# ATTACHMENT B - ADDITION TO EXISTING HOME AT 303 LAVERNE

TURNER ROAD



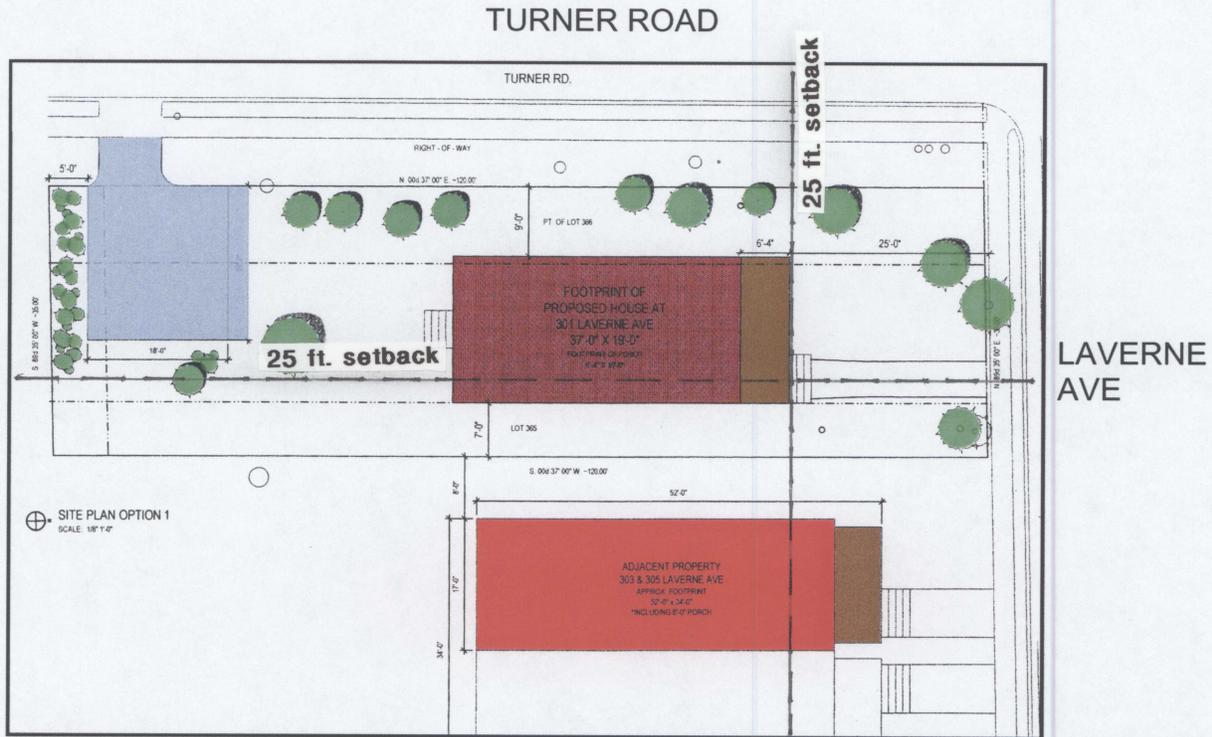
The above illustration shows how an addition could be located onto the existing house at 303 Laverne Avenue.

- No SUP required**
- No variations required**
- Provides Consolidated open space**

The addition could have the following characteristics:

|                                  |  |
|----------------------------------|--|
| Dimension of existing house      | 46 ft by 17 ft.  |
| Floor area of existing house     | 1666 square feet   |
| Combined lot area of 301 and 303 | 7200 square feet   |
| F.A.R. Allowed:                  | 0.45   |
| Total floor area allowed         | 3240 square feet   |
| Additional floor area allowed    | 1574 square feet   |
| Front Setback (Laverne)          | 25 feet required   |
| Front Setback (Turner)           | 25 feet required   |
| Side Setback 1:3                 | 8.34 feet required   |
| Height                           | 35 feet allowed  |
| Vision Clearance                 | 100 feet back from intersection of centerlines of streets required |
| Parking                          | None required  |

**ATTACHMENT C - OPTION 1**



The above illustration shows development of 301 Laverne Avenue under applicant's Option 1.

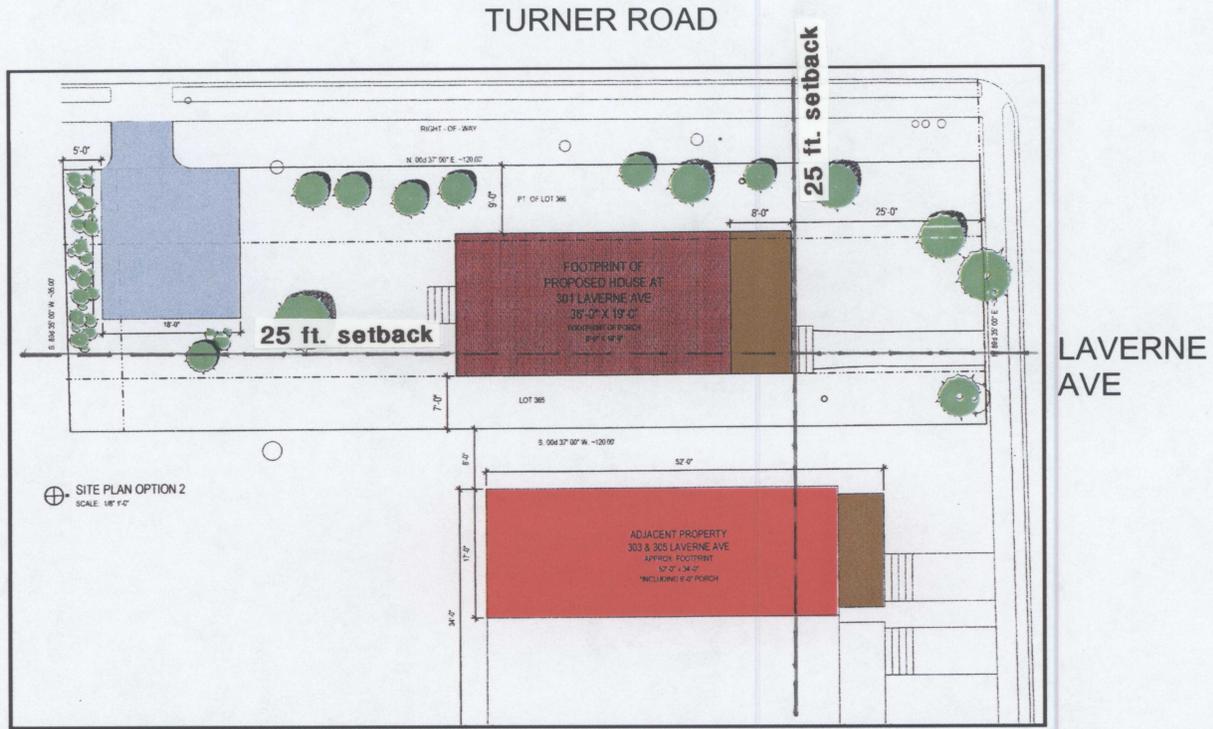
***Option 1 provides the full required front setback along Laverne Avenue***

***Development of the property under Option 1 requires approval of the SUP AND approval of variations to front (Turner Road only) and side setbacks and vision clearance setback***

Under Option 1, the proposed house has the following characteristics:

|                             |  |                              |
|-----------------------------|--|------------------------------|
| Dimension of house:         | 37 ft. by 19 ft.   |                              |
| Front Porch                 | 6.33 ft by 19 ft.  |                              |
| Total GFA of proposed house | 1526 square feet   |                              |
| F.A.R.                      | 0.45 allowed, .36 provided   |                              |
| Front Setback (Laverne)     | 25 feet required, 25 feet provided                                 | <b>NO variation required</b> |
| Front Setback (Turner)      | 25 feet required, 9 feet provided                                  | <b>variation required</b>    |
| Side Setback 1:3            | 8.34 feet required, 7 feet provided                                | <b>variation required</b>    |
| Height                      | 35 feet allowed, 25 feet   |                              |
| Vision Clearance            | 100 feet back from intersection of centerlines of streets required | <b>variation required</b>    |
| Parking                     | 2 spaces required, 2 spaces provided                               |                              |

ATTACHMENT D - OPTION 2



The above illustration shows development of 301 Laverne Avenue under applicant's Option 2.

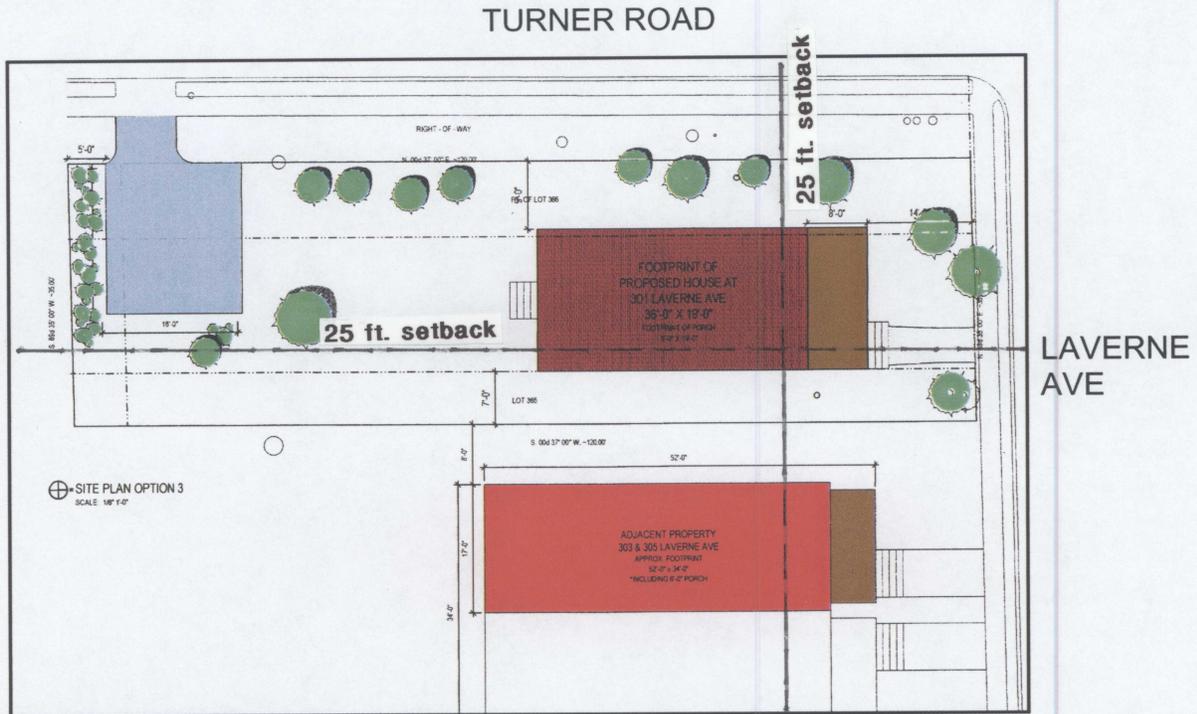
*Option 2 provides the full required front setback along Laverne Avenue and reduces the size of the house by 38 square feet*

*Development of the property under Option 2 requires approval of the SUP AND approval of variations to front (Turner Road only) and side setbacks and vision clearance setback*

Under Option 2, the proposed house has the following characteristics:

|                             |  |                              |
|-----------------------------|--|------------------------------|
| Dimension of house:         | 36 ft. by 19 ft.   |                              |
| Front Porch                 | 8 ft by 19 ft.   |                              |
| Total GFA of proposed house | 1520 square feet   |                              |
| F.A.R.                      | 0.45 allowed, .36 provided   |                              |
| Front Setback (Laverne)     | 25 feet required, 25 feet provided                                 | <b>NO variation required</b> |
| Front Setback (Turner)      | 25 feet required, 9 feet provided                                  | <b>variation required</b>    |
| Side Setback 1:3            | 8.34 feet required, 7 feet provided                                | <b>variation required</b>    |
| Height                      | 35 feet allowed, 25 feet   |                              |
| Vision Clearance            | 100 feet back from intersection of centerlines of streets required | <b>variation required</b>    |
| Parking                     | 2 spaces required, 2 spaces provided                               |                              |

ATTACHMENT E - OPTION 3



The above illustration shows development of 301 Laverne Avenue under applicant's Option 3.

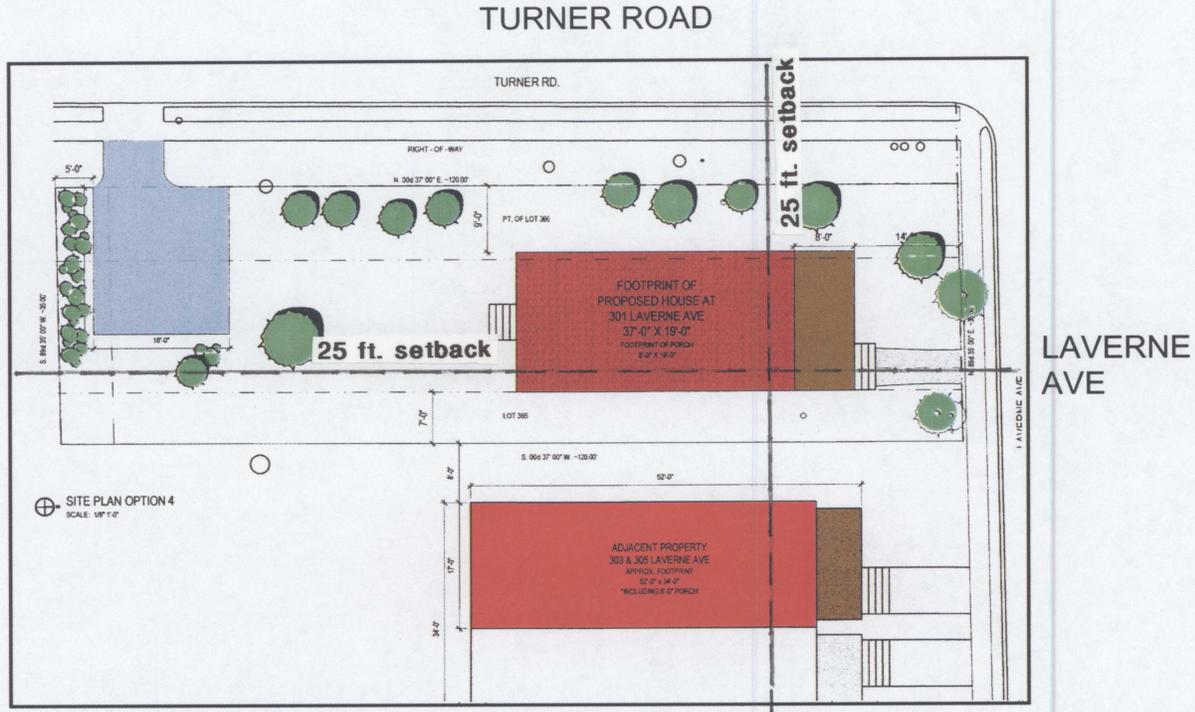
*Option 3 reduces the size of the proposed house by 38 square feet*

*Development of the property under Option 3 requires approval of the SUP AND approval of variations to front and side setbacks and vision clearance setback*

Under Option 3, the proposed house has the following characteristics:

|                             |  |                           |
|-----------------------------|--|---------------------------|
| Dimension of house:         | 36 ft. by 19 ft.   |                           |
| Front Porch                 | 8 ft by 19 ft.   |                           |
| Total GFA of proposed house | 1520 square feet   |                           |
| F.A.R.                      | 0.45 allowed, .36 provided   |                           |
| Front Setback (Laverne)     | 25 feet required, 14 feet provided                                 | <b>variation required</b> |
| Front Setback (Turner)      | 25 feet required, 9 feet provided                                  | <b>variation required</b> |
| Side Setback 1:3            | 8.34 feet required, 7 feet provided                                | <b>variation required</b> |
| Height                      | 35 feet allowed, 25 feet   |                           |
| Vision Clearance            | 100 feet back from intersection of centerlines of streets required | <b>variation required</b> |
| Parking                     | 2 spaces required, 2 spaces provided                               |                           |

ATTACHMENT F - OPTION 4



The above illustration shows development of 301 Laverne Avenue under applicant's Option 4.

***Development of the property under Option 4 requires approval of the SUP AND approval of variations to front and side setbacks and vision clearance setback***

Under Option 4, the proposed house has the following characteristics:

|                             |  |                           |
|-----------------------------|--|---------------------------|
| Dimension of house:         | 37 ft. by 19 ft.   |                           |
| Front Porch                 | 8 ft by 19 ft.   |                           |
| Total GFA of proposed house | 1558 square feet   |                           |
| F.A.R.                      | 0.45 allowed, .37 provided   |                           |
| Front Setback (Laverne)     | 25 feet required, 14 feet provided                                 | <b>variation required</b> |
| Front Setback (Turner)      | 25 feet required, 9 feet provided                                  | <b>variation required</b> |
| Side Setback 1:3            | 8.34 feet required, 7 feet provided                                | <b>variation required</b> |
| Height                      | 35 feet allowed, 25 feet   |                           |
| Vision Clearance            | 100 feet back from intersection of centerlines of streets required | <b>variation required</b> |
| Parking                     | 2 spaces required, 2 spaces provided                               |                           |

## SUMMARY OF OPTIONS

|   | GFA     | House   | Porch    | FAR  | Setback Laverne                      | Setback Turner                      | Vision Clearance   | Parking  |
|---|---------|---------|----------|------|--------------------------------------|-------------------------------------|--------------------|----------|
| <b>Proposed House per SUP 2005-0114</b> | 1530 SF | 37 X 19 | 6.5 X 19 | 0.36 | 14 feet provided; variation required | 9 feet provided; variation required | variation required | 2 spaces |
| <b>Addition to 303 Laverne</b>          | 1574 SF | na      | na       | na   | 25 feet + provided                   | 25 feet + provided                  |                    | na       |
| <b>Option 1</b>                         | 1526 SF | 37 X 19 | 6.3 X 19 | 0.36 | 25 feet provided; No variation       | 9 feet provided; variation required | variation required | 2 spaces |
| <b>Option 2</b>                         | 1520 SF | 36 X 19 | 8 X 19   | 0.36 | 25 feet provided; No variation       | 9 feet provided; variation required | variation required | 2 spaces |
| <b>Option 3</b>                         | 1520 SF | 36 X 19 | 8 X 19   | 0.36 | 14 feet provided; variation required | 9 feet provided; variation required | variation required | 2 spaces |
| <b>Option 4</b>                         | 1558 SF | 37 X 19 | 8 X 19   | 0.37 | 14 feet provided; variation required | 9 feet provided; variation required | variation required | 2 spaces |

21

2-25-06



<nisuco@verizon.net>

02/25/2006 10:30 PM

Please respond to  
<nisuco@verizon.net>

To <alexvamayor@aol.com>, <delpepper@aol.com>,  
<council@joycewoodson.net>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <macdonaldcouncil@msn.com>,

cc

bcc

Subject COA Contact Us: 301 Laverne Avenue

## COA Contact Us: 301 Laverne Avenue

Time: [Sat Feb 25, 2006 22:30:00] IP Address: [68.239.69.222]

Response requested:

**First Name:** susan  
**Last Name:** mader  
**Street Address:** 208 LaVerne Avenue  
**City:** Alexandria  
**State:** VA  
**Zip:** 22305  
**Phone:** 703 684-7042  
**Email Address:** nisuco@verizon.net  
**Subject:** 301 Laverne Avenue

Dear Mayor & City Council Members,

Long before some of us in the neighborhood even knew that the deal was done, we were treated to what we fear will be the behavior to expect in the coming months...Brett Rice arrived in his vehicle, at 301 Laverne Avenue, jumped out, ran around screaming, "I won! I'm going to be rich!". He continued this racket for ten minutes or more. He then rode down the street, honking his horn in celebration.

**Comments:**

We discovered that even though we had been following the Council's activity online (so we could be there when the decision was rendered on 301 Laverne), Brett's legal clout had somehow convinced you to advance his case to an earlier time - and, you had ruled in his favor. All of this, in spite of the Planning Commission decision (and, previous rejections) against the development. One can only imagine how he was able to, once again, circumvent the rules of procedure.

As a community, we have done everything within our power to present our position. Mr. Rice will not be living in this neighborhood. He will probably make our lives miserable during the construction

process. And, all he has to do is "...be rich!"

Congratulations.

Susan Mader  
208 Laverne Avenue

21  
2-25-06



<jackwilliams1@earthlink.net>

02/21/2006 12:01 AM

Please respond to  
<jackwilliams1@earthlink.net>

<alexvamayor@aol.com>, <delpepper@aol.com>,  
To <council@joycewoodson.net>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <macdonaldcouncil@msn.com>,  
cc

cc

bcc

Subject COA Contact Us: Open letter to R. Krupicka re: 301 Laverne SUP

**COA Contact Us: Open letter to R. Krupicka re: 301 Laverne SUP**

Time: [Tue Feb 21, 2006 00:01:39] IP Address: [165.247.89.114]

Response requested:

**First Name:** Jack R  
**Last Name:** Williams  
**Street Address:** 211 Laverne Avenue  
**City:** Alexandria, VA 22305  
**State:** VA  
**Zip:** 22305  
**Phone:** 7035497088  
**Email Address:** jackwilliams1@earthlink.net  
**Subject:** Open letter to R. Krupicka re: 301 Laverne SUP  
Rob,

Thank you for inviting me to the neighborhood meeting regarding 301 Laverne Ave., but I will be out of town on business and unable to attend.

However, if I were present I would have a question for you---Why?? Why did you propose a motion and then vote to rescind your earlier decision?

Was it the threat of a lawsuit by the applicant as referenced in your January 20th letter? Or was it the intimation by the applicant that he would buy back 303 Laverne and build a big oversized addition, as you also referenced, just to spite us all? If either is true, is that all it takes to subvert the process? Or was it for some other political agenda, the details of which we, the residents of this block, may never know.

Regardless, a reversal by the City Council of it's decision this coming Saturday would create and communicate several perceptions to me and others:

One, the Council's abject disdain of the Planning

Commission which has voted repeatedly, unanimously, against development of this small corner lot.

**Comments:**

Two, a disregard of the building ordinances and codes of the city, which were installed to protect the citizenry and prevent this type of inappropriate development. I don't believe anyone benefits from trying to shoehorn a little 1100 sf home in this tiny lot—except the developer.

And three, Rob, a flip-flop by you would show a blatant disrespect to the long-term residents of this block who actually live here and have been united and resolute in their opposition to this type of sfh development from the start, including several of us who actively supported you and your campaign.

In sum, as a 25-year resident and observer of this city, I believe we need insightful, energetic, and visionary leaders, such as yourself, to guide us into our fast-changing future; leaders capable of making tough ethical and moral decisions that impact our long-term welfare, not just short-term politically motivated ones.

Rob, for whatever reason, you chose to reopen this can of worms—and many of us will be listening and watching intently how, and whether, you choose to close it.

With sincerity, Jack R Williams



<sspearson@verizon.net>

02/25/2006 06:41 PM

Please respond to  
<sspearson@verizon.net>

<alexvamayor@aol.com>, <delpepper@aol.com>,  
To <council@joycewoodson.net>, <councilmangaines@aol.com>,  
<council@krupicka.com>, <macdonaldcouncil@msn.com>,  
cc

cc

bcc

Subject COA Contact Us: 301 Laverne Ave

21  
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2-25-06

## COA Contact Us: 301 Laverne Ave

Time: [Sat Feb 25, 2006 18:41:03] IP Address: [138.88.244.176]

Response requested:

**First Name:** Sarah  
**Last Name:** Pearson  
**Street Address:** 210 Laverne Avenue  
**City:** Alexandria  
**State:** VA  
**Zip:** 22305  
**Phone:** 703.535.5522  
**Email Address:** sspearson@verizon.net  
**Subject:** 301 Laverne Ave

As I was preparing to attend the city council hearing today to speak regarding the 301 Laverne issue, from the inside of our homes, Jack, Kathy, Nick, Susan and I heard yelling from Brett Rice and his business partner around 2:25 PM, "I'm going to be rich! I love being rich!" After 10 minutes of gloating, blasting his horn and burning tires, he left.

I'm aghast, disappointed and embarassed. By taking this case off the docket and into the shadows, to accomodate Rice's personal schedule, you have subverted our right to be heard AND all who voted with Rice have given your loyalty to one individual, not the citizens.

**Comments:**

We feel that it is important to seek council regarding this case to see if our rights have been subverted. Above all, we feel betrayed by our city council and speaking for myself, as a person who speaks nationally about the importance of being civically engaged, I am ashamed that my representatives rolled over for a stubborn and greedy developer rather than stand up for their constituents. Is this the shadow of things to come? Do we no longer have honest representation? Does civic engagement count for

something only if you're rich and powerful? This was a shameful day for Alexandrians.

Sarah Pearson