

Docket Item #3
BZA CASE #2003-00052

Board of Zoning Appeals
October 9, 2003

ADDRESS: 516 SOUTH HENRY STREET
ZONE: RB, RESIDENTIAL
APPLICANT: BRIAN J. HUNT AND NANCY S. WILLIAMS, OWNERS

ISSUE: Variance to replace and extend a 6.00 feet closed wood fence forward of the front building wall facing Gibbon Street, on the front property line facing South Henry Street and within the vision clearance area at the intersection of South Henry Street and Gibbon Street.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-202(A)(1)	Open Fence	3.50 ft	6.00 ft (Closed Fence)	2.50 ft
7-801(A)	Vision Clearance	100.00 ft	75.00 ft	25.00 ft

BOARD OF ZONING APPEALS ACTION OF OCTOBER 9, 2003: On a motion to defer by Ms. Lyman, seconded by Mr. Putzu, the variance was deferred by a vote of 5 to 1. Mr. Allen dissented.

Reasons for deferral: This case was deferred to allow the applicant time to explore alternate designs.

Reasons for denial: The applicants failed to demonstrate hardship.

Speakers:

Brian Hunt and Nancy Williams, owners, made the presentation.

Linwood S. Smith, 1007 Gibbon Street, spoke in opposition to the proposed fence, stating that granting the variance would create a safety hazard.

Alice Turner, neighbor, spoke in opposition to the proposed fence, stating that it would create a blind spot.

Lynn Selander, 514 South Henry Street, spoke in support of the variance, stating that the proposed fence is in keeping with the character of the neighborhood and that in fact a 3.5 foot fence is not permitted by the homeowner's association. She also stated that the proposed fence would not create a safety hazard and would improve the appearance of the street while giving the applicant access to the flat, usable portion of their lot.

(insert sketch here)

STAFF CONCLUSION:

This property does not meet the requirements for a variance.

DISCUSSION:

1. The applicants request the following approvals: (1) a variance to replace and extend a 6.00 feet high closed wood fence forward of the front building wall facing South Henry Street and Gibbon Street and (2) variance to build the proposed wood fence within the vision clearance setback at the intersection of South Henry Street and Gibbon Street.
2. The subject property is a corner lot with 80.00 feet of frontage facing South Henry Street and 31.17 feet of frontage facing Gibbon Street. A small portion of the lot is angled where the front property line facing Gibbon Street intersects with the front property line facing South Henry Street. The subject property is not a perfect triangular shaped lot. The lot contains 3,025 square feet. The subject property is not substandard in lot area for a corner lot in the RB zone. The minimum lot size required for a corner lot is 1,980 square feet.
3. The subject property is part of the townhouse development built under the DIP Urban Renewal Project approved by City Council in 1970. The subject building was constructed in 1978.
4. On October 12, 1978, the Board of Zoning Appeals granted a variance to allow the foundation of the subject building to be located within 19.39 feet facing South Henry Street. (Refer to BZA Case #1760, attached).
5. The two-story end unit townhouse with an open front stoop and an open deck is located 19.39 feet from South Henry Street, shares a common party wall with the neighboring townhouse along the east side property line and over 20.00 feet from Gibbon Street. The section of townhouses which includes the subject property were constructed with the front entrances of the houses facing an interior common area with the rear yards facing Gibbon Street. According to Real Estate Assessment records, the house was constructed in 1978. The house is not located within the vision clearance area nor an existing 6.00 feet located facing South Henry Street and Gibbon Street (refer to attached photographs).
6. An existing 5.00 feet closed wood fence currently encloses a portion of the front yard facing South Henry Street and a portion of the open yard facing Gibbon Street. The applicants indicate the fence is in need of repair and must be replaced. The existing fence complies with the vision clearance area at the intersection of South Henry Street and Gibbon Street which results in a portion of the subject lot open.

7. The applicants propose to replace an existing 5.00 feet closed wood fence with a 6.00 feet closed fence forward of the rear building wall along the front property line facing South Henry Street, turning at an angle where the front property line facing South Henry Street intersects with the front property line facing Gibbon Street and continue along the front property line facing Gibbon Street. The new 6.00 feet fence will end where an existing 6.00 feet closed wood fence has been constructed dividing the subject property with the adjoining property along the east side property line.
8. The proposed fence requires a variance to build a 6.00 feet fence on the front property line facing South Henry Street and Gibbon Street and to be placed with the vision clearance triangle. Under the rule for fences on corner lots, a front yard fence must be 3.50 feet in height if placed on the front property line and no fence can be taller than 3.50 feet in height if placed in the vision clearance triangle. In this case the applicants wishes to enclose the entire front yard facing South Henry Street up to the front property line facing South Henry Street and on the front property line facing Gibbon Street. The new fence will be placed within the 75.00 feet of the vision clearance triangle rather than the 100.00 feet area as required by the zoning ordinance.
9. The applicants indicate that the 6.00 feet high fence as proposed is needed for the following reasons:
 - to secure the property which is heavily exposed from two public streets.
 - to improve privacy and use of more of the two open yards.
 - to reduce the impact of noise since the house faces onto two well traveled neighborhood streets.
 - to replace the existing 5.00 feet closed fence now in need of repair.
 - to use a portion of the yard which is shaped like triangle and is now separated by the existing fence from the rest of the property. The small triangular shaped area totals 570 square feet and is rendered unusable in its current condition.
10. The applicant indicates that the proposed fence is in keeping with similar fences in the immediate neighborhood. An inspection of the immediate neighborhood revealed there are other 6.00 feet high solid wood fences built along side and rear yards within the immediate neighborhood; there are other 6.00 feet fences in required front yards of corner lot residences. It appears that the fences were constructed prior to current corner lot fence regulations. The City has no permits on record indicating when the nearby fences were installed.

11. The Alexandria Department of Transportation and Environmental Services is not opposed to granting the variance, as the proposed fence will not obstruct vehicular line of sight since the existing stop sign at Gibbon Street is forward of the proposed fence location. Transportation and Environmental Services requests the fence be installed adjacent to the property line.
12. There have been no special exceptions for corner lot fences in front yards or variances for fences in the vision clearance area in the immediate neighborhood.
13. Master Plan/Zoning: The subject property is zoned RB, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951, and is identified in the Potomac West Small Area Plan for residential land use.

REQUESTED VARIANCES:

Section 8-801(A), Vision Clearance:

The RB zone requires a vision clearance setback of 100 feet from the intersection of South Henry Street and Gibbon Street, and within the vision clearance area no structure taller than 3.50 feet measured from the top of the street curb. The applicants are requesting a variance to allow the wood fence facing south Henry Street and Gibbon Street to be built within the vision clearance area. The height of the fence from top of street curb to top of the fence is 6.00 feet. The applicants requests a variance to reduce the vision clearance area from 100.00 feet to 75.00 feet to construct a fence in the vision clearance.

Section 7-202(A)(1), Open Fence:

The zoning ordinance restricts the height of fences if placed on the front property line to 3.50 feet and to be an open style fence similar to a picket fence. The applicants request a variance to place a 6.00 feet closed style fence on the front property line facing South Henry Street and along the front line facing Gibbon Street.

STAFF ANALYSIS UNDER CRITERIA OF SECTION 11-1103:

1. Does strict application of the zoning ordinance result in undue hardship to the property owner amounting to a confiscation of the property, or prevent reasonable use of the property?

Strict application of the vision clearance regulations will not result in unnecessary hardship on the applicants nor constitute a hardship approaching confiscation. The need for a 6.00 feet closed fence within the vision clearance area is not necessary to prevent the applicants

reasonable use of the property. The applicants can use the remainder of the property if a 3.50 feet open style fence is installed without the need of a variance. Strict application of the zoning regulations does not result in undue hardship.

2. Is the hardship identified above unique to the subject property, or is it shared by other properties in the neighborhood or the same zone?

The subject property is not unique. There are other corner lot properties in the immediate area with end-unit townhouse dwellings located on them (the subject property and the homes directly behind the subject property); all share the same general characteristics and are not substandard corner lots. In fact, the house currently complies with the vision clearance requirement. Since these other corner lot properties are currently not in the vision clearance setback area and are larger than the zone requires. The remainder of the subject lot can be continue to be used if a 3.50 feet open style fence is installed without compromising the vision clearance.

3. Was the hardship caused by the applicant and, if so, how was it created? Or did the condition exist when the property was purchased and, if so, did the applicant acquire the property without knowing of the hardship; how was the hardship first created?

The vision clearance setback requirement has been in effect since adoption of the 1951 zoning code to insure vehicular safety. This house was built in the 1970's when the vision clearance rules existed and, therefore, complies with the zoning regulations. The existing 5.00 feet closed fence complies with the vision clearance requirement.

The owners can have full use of their property under the current fence rules. This portion of the property can be enclosed by a 3.50 feet tall fence without it being walled off to its neighbors. A 6.00 foot fence will, in effect, create a wall from the street. The current fence conditions of adjoining properties is what the current fence rules were created to prevent from occurring facing the street. Staff, therefore, believes that the Board should deny the special exception request.

4. Will the variance, if granted, be harmful in any way to any adjacent property or harm the value of adjacent and nearby properties? Will it change the character of the neighborhood?
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The applicants proposal is to place a closed fence around the entire property and reduce the vision clearance area. As placed, the proposed fence will not obstruct the line of sight of vehicles traveling on Gibbon Street when approaching the intersection of Gibbon Street and South Henry Street. The Department of Transportation & Environmental Services does not oppose the applicants' proposed fence location and fence height.

5. Have alternate plans been considered so that a variance would not be needed?
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None that would meet the needs of the applicants.

6. Is any other official remedy available to relieve the hardship?
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No other remedy exists except a variance or construction of a 3.50 feet open style fence on the front property lines.

STAFF: Barbara Ross, Deputy Director, and Peter Leiberg, Principal Planner, Department of Planning and Zoning

DEPARTMENTAL COMMENTS

Transportation and Environmental Services:

F-1 No objections. Requests that fencing be installed adjacent to the property line.

Code Enforcement:

F-1 No comments.

Recreation (Arborist):

F-1 There are no trees affected by this plan.

Historic Alexandria (Archaeology):

F-1 The G.M. Hopkins City Atlas of Alexandria indicates that a structure may have been present on this lot by 1877. The property therefore has the potential to yield archaeological resources which could provide insight into 19th-century Alexandria.

R-1 Call Alexandria Archaeology immediately (703-838-4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during development. Work must cease in the area of the discovery until a City archaeologist comes to the site and records the finds.

R-2 The above statement must appear in the General Notes of the site plan so that on-site contractors are aware of the requirement.

Police Department:

F-1 No objections.

Other Requirements Brought to the Applicant's Attention:

C-1 A wall check survey plat shall be submitted to Planning and Zoning when the building footprint is in place, pursuant to Alexandria City Code section 8-1-12.

