Docket Item #2
BZA CASE #2004-00053
(REVISED)

Board of Zoning Appeals
February 10, 2005

ADDRESS: 412 EAST ALEXANDRIA AVENUE
ZONE: R-2-5, RESIDENTIAL
APPLICANT: PAULO DEOLIVEIRA, OWNER

ISSUE: Variance to construct a detached two-car garage in the required side yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard (East)	7.00 ft	2.00 ft	5.00 ft

BOARD OF ZONING APPEALS ACTION OF JANUARY 13, 2005: On a motion to defer by Mr. Lantzy, seconded by Mr. Allen, the variance was deferred by a vote of 4 to 0.

Reason: To allow the application to be heard by a full board.

Speakers:

Paulo DeOlivera, owner, made presentation.

Walmir Cunha, owner at 416 East Alexandria Avenue, spoke in support.

(insert sketch here)

STAFF CONCLUSION:
Staff recommends **denial** of the request because the applicant has not demonstrated a hardship. If the Board decides to grant a variance, it should contain the conditions under the department comments.

I. Issue

The applicant proposes to build a detached two-car garage for the property at 412 East Alexandria Avenue. The applicant states that the garage is designed to accommodate the storage of two modern vehicles. The proposed garage will be placed within 2.00 feet of the required east side yard and 7.00 feet from the rear property line. The new garage is designed to match similar detached garages both in mass and building height as other garages within the neighborhood. The placement of the new garage is intended to preserve open space and maintain a open back yard for the residence.

Sanborn maps indicate a one car detached garage was previously located on the rear property line and approximately one foot from the east side property line. At the time the applicant purchased the property the garage had been removed. The applicant is currently renovating the existing house by constructing a second floor and is requesting variance approval to construct a two-car garage.

II. Background

The subject property is two lots of record with 50.00 feet of frontage facing East Alexandria Avenue and a depth of 127.64 feet. The property abuts a public alley along the north rear property line. The property contains a total of 6,400 square feet. The subject property is not substandard in lot area. The minimum lot area required for an R-5 zoned lot is 5,000 square feet.

The property is developed with a recently renovated two-story single family dwelling with a open front porch and side and rear decks located 10.00 feet from the front property line facing East Alexandria Avenue, 7.60 feet from the west side property line and 9.90 feet from the east side property line. Real Estate Assessment records indicate the applicant purchased the property in 1998. The applicant also owns the abutting property to the east.

Sanborn maps indicate a one-car garage was located as close as one foot from the east side property line and on the rear property line.

III. Discussion

The proposed detached two-car garage measures 24.66 feet by 20.66 feet by 16.00 feet to the top of the roof. The garage is located 2.00 feet from the east side property line (1.00 feet from the roof overhang facing the east side property line) and 7.00 feet from the rear property line in compliance with the R-2-5 zone requirement.

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The proposed garage does not meet the R-2-5 zone regulations as to the required setback of 7.00 feet from the east side property line. Therefore, the applicant is seeking a variance from the side yard requirement.

There have been no variances previously granted for the subject property. Since 1993, there have been no similar variance requests for garages in the immediate area heard by the Board of Zoning Appeals.

IV. Master Plan/Zoning

The subject property is zoned R-2-5, residential and has been so zoned since 1951, and is identified in the Potomac West Area Plan for residential land use.

V. Requested variances

Section 3-506(A)(2), Side Yard (East):

The R-2-5 zone requires each single-family dwelling to provide two side yards of 7.00 feet. The proposed garage will be located 2.00 feet from the east side property line. A side yard setback of 7.00 setback is required. The applicant requests a variance of 5.00 feet from the east side property line.

VI. Staff analysis under criteria of section 11-1103

To grant a variance, the Board of Zoning Appeals must determine that a hardship exists because of the unique characteristics of the property. Section 11-103 of the zoning ordinance lists standards that an applicant must address and that the Board believes exists and thus warrants varying the zoning regulations.

(1) The particular physical surroundings, shape, topographical condition or extraordinary situation or condition of the property that prohibits or unreasonably restricts the use of the property.

(2) The property's condition is not applicable to other property within the same zoning classification.

(3) Hardship produced by the zoning ordinance was not created by the property owner.

(4) The granting of a variance will not be detrimental to the public or other property or the neighborhood in which the subject property is located. Nor will the granting of a variance diminish or impair the value of adjoining properties or the neighborhood.

(5) The granting of the variance will not impair light and air to the adjacent property.

(6) The granting of a variance will not alter the character of the area nor be detrimental to the adjacent property.

(7) Strict application of the zoning ordinance will produce a hardship.

(8) Such hardship is generally not shared by other properties in the same zone and vicinity.

(9) No other remedy or relief exists to allow for the proposed improvement.

(10) The property owner has explored all options to build without the need of a variance.

VII. Applicant's Justification for Hardship

The applicant's justification for hardship is that the zoning rules create an unreasonable restriction on the use of the property in order to build a modern garage. In addition, the applicant states the original subdivision of the property and location of the existing house created a hardship to construct a detached garage. Finally, the applicant states he did not explore alternative plans or consider options such as a one car garage located in compliance with the side yard setback requirement.

VIII. Staff Analysis

The reasons set forth by the applicant for hardship do not warrant granting a variance. The applicant can build a two-car garage in compliance with the side yard setback of 7.00 feet and still be 19.00 feet away from the other side yard. Alternatively, rather than construct a two-car garage, a modern size one car garage can be built in compliance with the side yard requirement without impacting much of the back yard. A one car garage was previously built on the property.

The subject property has no unusual lot characteristics (it is flat with no topographic condition that will prohibit the use of the lot). The lot is not substandard and is in fact slightly larger than the minimum lot size requirement of 5,000 square feet. There are no large trees that would affect the placement of the garage. Other properties within the neighborhood are similar in size and lot configuration. The subject property has similar characteristics to other neighboring properties and those properties have one-car garages.

The applicant has not made a case for hardship, which is a prerequisite for granting a variance. In addition, the applicant refuses to explore alternative options that do not require a variance.

Staff recommends **denial** of the variance.

DEPARTMENTAL COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

* The applicant is advised that if the variance or special exception is approved the following additional comments apply.

Transportation and Environmental Services:

F-1 No objections or recommendations.

Code Enforcement:

C-1 All exterior walls within 5 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides, with no openings permitted within the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to skylights within setback distance.

C-2 Prior to the issuance of a demolition permit or land disturbance permit, a rodent abatement plan shall be submitted to Code Enforcement that will outline the steps that will taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.

C-3 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.

C-4 A soils report must be submitted with the building permit application.

C-5 New construction must comply with the current edition of the Uniform Statewide Building Code (USB).

C-6 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.

C-7 Permission from adjacent property owners is required if access to the adjacent properties is required to complete the proposed construction. Otherwise, a plan shall be submitted to demonstrate the construction techniques utilized to keep construction solely on the referenced property.

C-8 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.

Recreation (Arborist):

F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

F-1 There is low potential for this project to disturb significant archaeological resources. No archaeological action is required.

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.