Docket Item #1
BZA CASE #2005-0023

Board of Zoning Appeals
July 14, 2005

ADDRESS: 122 PRINCE STREET
ZONE: RM, RESIDENTIAL
APPLICANT: JAMES AND CHRISTINE GARNER, BY MICHELLE ROSATI, ATTORNEY

ISSUE: Variance to construct a 3 story single family dwelling with a two-story rear addition in the required east side yard and rear yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-1108(C)(1)	Side Yard (western edge of the private alley)	5.00 ft	0.00 ft	5.00 ft
3-1106(A)(3)(a)	Rear Yard	16.00 ft*	2.00 ft	14.00 ft

* Based upon a building height of 23.00 feet to the mid-point of the gable roof.

Staff **recommends denial of the request** because there is no justification of hardship.

If the Board decides to grant a variance, it should contain the conditions under the department comments. The variance must also be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.

Deferred prior to the June 9, 2005 hearing.

Insert sketch here.

I. Issue

The applicants propose to (1) demolish an existing metal garage structure, remove an existing curb cut on Prince Street, and (3) build a three-story single-family dwelling with a rear two-story addition located in the required east side and south rear yard at 122 Prince Street.

II. Background

The subject property, a lot of record as of February 10, 1953, is one lot with 40.00 feet of frontage facing Prince Street, a depth of 44.33 feet and a lot area totaling 1,773 square feet. An private alley 8.00 feet wide abuts the property along the east property line. As indicated on the submitted plat, the applicants' represent that their property includes half of the alley width. An existing curb cut is located near the east side property line provides access to an existing metal garage structure which at one time provided off-street parking for the property at 123 Prince Street.

Figure 1- Existing Metal Structure

III. Discussion

The proposed three-story single-family detached dwelling is located on the front property line facing Prince Street, 5.00 feet from the center of a private alley,12.00 feet from the west side property line and 2.00 feet from the rear property line. As seen from Prince Street, the house is 29.00 feet in height to the eave line of the roof which is parallel to Princes Street; approximately 23.00 feet to the mid-point of the gable roof as seen from the rear property line; the overall building height is a little over 38.50 feet to the roof ridge. As shown on the submitted plat, the proposed house will be placed 5.00 feet from the centerline of the 8.00 feet wide alley to the east. The City Attorney has ruled that the zoning rules do not allow a side yard alley to be counted in the applicable side yard setback (in this instance 5.00 feet). The City has determined that the minimum side yard is measured from the western edge of the alley not the centerline of the alley. As indicated on the submitted plat, the house will be located 2.00 feet from the rear property line. A variance of 5.00 feet from the east side property line and 14.00 feet to place the proposed house 2.00 feet from the rear property line is required.

The proposed house will comply with the floor area, west side yard setback and open space requirements for a new detached single-family dwelling in the RM zone. Access to off-street parking for a new house in the Old and Historic District must be from an alley or court as

required by the zoning regulations. A new residential dwelling is required to provide two off-street parking spaces. Since the applicants cannot provide required parking from an alley or court they are exempt from providing required parking. The applicants propose to eliminate an existing curb cut to be consistent with the development pattern along the 100 block of Prince Street.

This property is located in the Old and Historic Alexandria District. New construction visible from the public right-of-way require reviews and approval of the Old and Historic Alexandria District Board of Architectural Review. The applicants have filed an application for demolition and a Certificate of Appropriateness for the new house. No action will be taken on the applications until after the Board of Zoning Appeals has taken action on the requested variances.

Staff believes that the new construction should be pulled as far away as possible from the east elevation of the house at 126 Prince Street. The weatherboard siding on the east elevation of 126 Prince Street appears never to have been painted. Painting only the front facade of a frame dwelling was common practice in Alexandria during the lat 18th and early 19th century. Thus, this house is a rare example of a once common building practice. Several years ago, restoration work was undertaken on this siding and severely deteriorated siding was replaced with siding that was salvaged from the rear elevation and the rear of the house was re-sided with new replacement siding. 126 Prince Street is a two story, attached frame house that likely dates from the late 18th century. Staff examination of the house several years ago, indicated that at least portions of the house survived the January 1827 fire. There was evidence of charring of some timbers, but the structural system appeared to be largely intact.

There have been no variances previously approved for the subject property.

IV. Master Plan/Zoning

The subject property was zoned RM, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951. In 1992 the property is identified in the adopted Old Town Small Area Plan for residential land use.

V. Requested variances

Section 3-1108(C)(1), Side Yard:

The RM zone requires a lot of record which is 35 feet or wider to provide two side yards of a minimum of 5.00 feet. The proposed dwelling is located 5.00 feet from the center line of a private alley (western edge of the alley). The applicants request a variance of 5.00 feet.

Section 3-1106(A)(3)(a), Rear Yard:
The RM zone requires a detached residential dwelling to provide a minimum rear yard setback of 16.00 feet or two feet of building height for each foot of setback. The proposed dwelling is located on the rear property line. Based on a building height of 23.00 feet to the mid-point of the gable roof facing the rear property line a rear setback of 16.00 feet is required. The applicants request a variance of 16.00 feet.

VI. Staff analysis under criteria of section 11-1103

To grant a variance, the Board of Zoning Appeals must determine that a unique characteristic exists for 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 applicants state that the few undeveloped lots in the RM zone where double side yards are imposed is not the development pattern on Prince Street. The majority of the homes on Prince street are in fact placed on the side property lines. Shifting the house to accommodate the necessary setbacks will result in the house encroaching into required open space, obstructing views from adjoining properties. The subject property is required to comply with more rigorous side yards which in uncharacteristic for the immediate area and historically appropriate. The subject property is unique and not similarly situated to adjoining properties in the neighborhood.

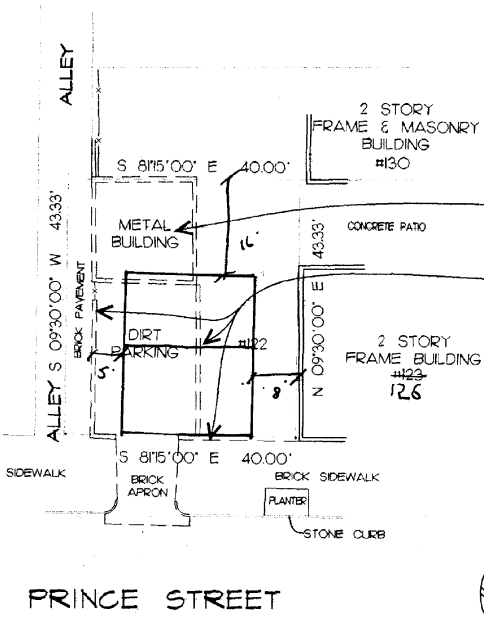

Figure 2- Footprint allowed by right

VIII. Staff Analysis

There is no justification for hardship. A new house (23 feet wide facing Prince Street by 28 feet deep by three-stories) can be constructed on this property in compliance with the east side and rear yard setbacks. (Refer to *Figure 2*).

The lot is level and no trees will be affected by the placement of the new house. Although, the lot is less than half the depth (44.33 feet) compared to the standard Old Town lot of 100 feet deep it is twice as wide as the minimum lot width required for an RM zoned lot. The wider lot does compensate for the loss of lot depth, but does not limit the placement of a new house on the lot. The placement of the new house is located in compliance with the zoning rules from th west side property line to maintain open space, respect the historic wall at 126 Prince Street and maintain views of Prince Street for the neighbors directly behind the applicants at 130 South Lee Street. The BAR will require the new house to not impede the view nor allow a new structure that could effect the historic wood wall on the east side of the house at 126 Prince Street.

By shifting the new house west by another 4.00 feet from the western edge of the private alley to address the east side yard setback will still provide 8.00 feet of distance from the historic wall at 126 Prince Street. No side yard variance will be needed. By placing the house in such a manner will increase open space on the lot and improve visual and limit building mass impact on the existing house at 116 Prince Street. There is no hardship nor justification to support an east side yard variance.

The property is not unique to support the placement of the house closer to the rear property line than the minimum of 16.00 feet there is no hardship. The two-story house at 126 Prince Street west of the subject property is built on a similar size lot (lot width, lot area and depth) as the applicants' property, but is located almost 16.00 feet from the rear yard property line as required by the zoning code. Given the similar lot conditions and placement of the house, staff believes a reasonable size house can still be built that respects the rear yard setback requirement. The need of a two-story addition is unnecessary and contributes over development on a limited depth lot. An open rear yard will provide not only important visual and building relief but help reduce the amount of building coverage on a lot which is similar in characteristics to the neighboring lot. Open rear yards are a historic characteristic of Old Town homes and provide important relief from buildings tightly placed up against a neighboring building to assure light and air to their neighbors.

The subject property can maintain and compliment the existing development pattern and land use on Prince Street where street parking is the norm and within the zoning rules as to side and rear yard setbacks. The combination of the above factors does not severely restrict the placement nor limits buildable area for a new house that complies with the side and rear yard setbacks.

The applicants have not demonstated a legal hardship. Staff recommends **denial** of the variance.

STAFF: Hal Phipps, Chief, Planning and Zoning
Peter Leiberg, Zoning Manager

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DEPARTMENTAL COMMENTS

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

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

Transportation and Environmental Services:

C-1 All utilities serving this site shall be placed underground. (Sec. 5-3-3)

C-2 Pay sanitary sewer tap fee prior to issuance of a building permit.(Sec. 5-6-25.1)

C-3 Any work within the right-of-way requires a separate permit from T&ES.(Sec. 5-3-61)

C-4 Roof drains and sub-surface drains shall be connected to the city storm sewer system, if available, by continuous underground pipe. (Sec. 8-1-22)

C-5 Per City Ordinance No. 3176, requests for new driveway aprons, unless approved at public hearing as part of a related item, must be accompanied by an adjacent **Property Owners Acknowledgment** form.

C-6 Change in point of attachment or removal of existing overhead utility services will require undergrounding or a variance. (Sec. 5-3-3)

R-1 A PLOT PLAN showing all improvements and alterations to the site must be approved by T&ES prior to issuance of a building permit. (T&ES)

R-2 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)

R-3 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)

R-4 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet. (T&ES)

R-5 No permanent structure may be constructed over any existing private and/or public utility easements. It is the responsibility of the applicant to identify any and all existing easements on the plan. (T&ES)

R-6 City Code Section 8-1-22 requires that roof, surface and sub-surface drains be connected to the public storm sewer system. Where storm sewer is not available applicant must provide a design to mitigate impact of stormwater drainage onto adjacent properties and to the satisfaction of the Director of Transportation & Environmental Services. (T&ES)

R-7 Where the construction of a residential unit that results in land disturbing activity in excess of 2500 square feet, the applicant is required to comply with the provisions of Article XIII of the City's zoning ordinance for stormwater quality control. The applicant may request, in writing to the Director of T&ES, a waiver from the requirements of the ordinance. Contact the Division of Environmental Quality, T&ES (703/519-3400, ext. 219) for information. **(APPLICANT MUST CONSTRUCT a BMP FACILITY or PARTICIPATE IN THE CITY'S "FEE-IN-LIEU OF" PROGRAM)**

Code Enforcement:

F-1 The East side of the property is located along a private alley and as such the fire separation distance for the proposed shall be measured from the edge of the alley and the interior lot line to the structure. This distance is shown as zero distance. As such, C-1 below shall apply.

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 of the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to skylights within setback distance. Openings in exterior walls between 3 and 5 feet shall not exceed 25% of the area of the entire wall surface (This shall include bay windows). Openings shall not be permitted in exterior walls within 3 feet of an interior lot line.

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 (USBC).

C-6 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

C-7 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-8 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-9 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 Tax records indicate that a house was present on this lot by 1810. The structure was destroyed in the Great Fire of 1827 and was never rebuilt. The property therefore has the potential to yield archaeological resources which could provide insight into domestic activities in Alexandria during the early 19th century and possibly during the late 18th century.

R-1 Contact Alexandria Archaeology (703-838-4399) two weeks prior to any ground disturbing activity (such as coring, grading, filling, vegetation removal, undergrounding utilities, pile driving, landscaping and other excavations as defined in Section 2-151 of The Zoning Ordinance) on this property. City archaeologists will provide on-site inspections to record significant finds.

R-2 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-3 The above statements in R-1 and R-2 must appear in the General Notes of the site plan so that on-site contractors are aware of the requirement.

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.