

Docket Item #2
BZA CASE #2008-0011

Board of Zoning Appeals
April 10, 2008

ADDRESS: 217 NORTH SAINT ASAPH STREET
ZONE: RM, RESIDENTIAL
APPLICANT: MIKE MARGIOTTA, OWNER

ISSUE: Variance to construct a detached garage with an enclosed stair vestibule in the required north and south side yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-1108(A)(2)(a)	Side Yard (North)	5.00 ft	0.00 ft	5.00 ft
3-506(A)(3)	Side Yard (South)	5.00 ft	3.83 ft	1.17 ft

BOARD OF ZONING APPEALS ACTION OF APRIL 10, 2008: On a motion to approve by Mr. Goodale, seconded by Ms. Lewis, the variance was approved by a vote of 7-0.

Reason: The configuration and characteristics of the lots owned by the applicant created a unique situation. The proposal is modest in nature and the Board has often approved similar minimal intrusions into the setback for covered entries.

Speakers:

Mike Margiotta, owner, made the presentation.

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 and based upon the designed approved by the Board of Architectural Review on March 5, 2008. 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.

Insert Map Here

I. Issue

The applicant proposes to build a detached two-car garage with a second floor home office at the rear of the property at 217 North Saint Asaph Street. The proposed garage will be placed on the north property line, 3.83 feet from the south property line and on the rear property line. The new garage building has been approved by the Board of Architectural Review on March 5, 2008 conditional upon the Board of Zoning Appeals approving the side yard variances. The BAR believed the redesign of the building was responsive to the concerns that had been expressed by the members at the previous hearings.

II. Background

The subject property consists of four lots of record with 23.50 feet of frontage facing North Saint Asaph Street and a combined lot depth of 143.42 feet. The property abuts a private alley along the east rear property line. The property contains a total of approximately 3,402 square feet. The subject property is not substandard in lot area. The minimum lot area required for an RM zoned lot is 1,980 square feet.

The property is developed with a recently renovated two-story single family dwelling with a two-story rear addition located on the front property line facing North Saint Asaph Street, on the north side property line and 5.40 feet from the south side property line. Real Estate Assessment records indicate the house was built in 1810. The applicant purchased the property in 2006.

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 underway to complete renovations to the existing house and has recently completed building a new rear two-story addition.

III. Description

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 1.00 feet from the east side property line and 4.00 feet from the rear property line. An enclosed vestibule landing that leads to a stairway to the second floor of the garage is the only portion of the garage structure that projects beyond the original garage lot towards the house. In fact, the enclosed vestibule projects over an interior lot line of the second of the four lot of record that comprise the property. Under the RM zone regulations 3-1108(C) (3), a lot of record that is less than 25 feet wide no side yard requirement is triggered. Since the only portion of the new garage that breaks the plan of an interior lot line is the enclosed vestibule results in the new building requiring no side yard setbacks to two side yards of at least 5.00 feet each. The new garage is located on the north property line and 3.83 feet from the south side property line. Therefore, the applicant must request a variance of 5.00 feet from the north

side property line and 1.17 feet from the south side property line. The garage complies with the rear yard setback requirement.

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

IV. Master Plan/Zoning

The subject property is zoned RM, residential and has been so zoned since 1951, and is identified in the Old Town Small Area Plan for residential land use.

V. Requested Variances

Section 3-1106(A) (2)(a), Side Yard (North and South):

The RM zone requires a detached garage to provide two side yards of 5.00 feet. The proposed garage will be located on the north side property line and 1.83 feet from the south side property line. The applicant requests a variance of 5.00 feet and 1.17 feet respectively.

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 11-1103 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 new garage's enclosed vestibule is not confined to the original garage lot. The placement of the stair vestibule triggers two side yard setbacks when previously there were no side yard requirements. The vestibule configuration allows for access to the upper level of the garage while preserving the interior space for two vehicles. The proposed vestibule also allows for emergency egress to the rear alley, Fire Department access from the alley to the rear of the house and preserves ground level open space between the garage and the new rear addition.

VIII. Staff Analysis

The reasons set forth by the applicant for hardship is not unique and does not place an unreasonable restriction on the use of the property. Without the enclosed stair vestibule, the new garage structure could be constructed without a variance. Placing two side yards of 5.00 feet each when the property was grandfathered with no side yards does not seem unreasonable. The applicant could accommodate the stairs within the garage without the need of projecting over the interior property line thereby preserving his grandfathering rights and without triggering a variance. Alternatively, rather than construct a two-car garage, a modern yet slightly larger one car garage can be built without eliminating the grandfathering rights afforded to this lot. A one car garage was previously built on the property. The applicant's grandfathering rights affords him certain privileges that are not always offered to other RM zone lots in the Old and Historic District.

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 nearly twice the size of the minimum lot size requirement of 1,980 square feet and is also tall. There are no large trees that would affect the placement of the garage. The subject property has similar characteristics to other neighboring properties and those properties have one-car garages, but slightly lower in height.

The applicant has not made a case for hardship, which is a prerequisite for granting 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 is approved the following additional comments apply.

Transportation and Environmental Services:

R-1 An approved Grading Plan must be attached to the building permit application. The Grading Plan is required because the submitted documentation indicates that the proposed project will impact existing drainage patterns and may result in changes to existing grades of 1-foot or greater. If the applicant is able to demonstrate, to the satisfaction of the Director of Transportation & Environmental Services, that the project will not cause changes to existing drainage patterns or changes in elevations of 1-foot or greater, then this requirement may be waived.

In general, a Plot Plan is required when construction of a proposed addition:

- Results in a new building footprint that exceeds the area of the existing building footprint by 100% or more.
- Results in less than 50% of the existing first floor exterior walls, in their entirety, remaining. The walls must comprise the footprint of the existing building and shall be measured in linear feet. The remaining walls must remain as exterior walls. The definition of a first floor exterior wall is that it must have its finished floor surface entirely above grade.
- Results in land disturbance associated with the project of 2,500 square feet or greater in area. The disturbed area will be determined by adding a minimum of 10' to the perimeter of the building (or addition) footprint and calculating the area within the increased perimeter. In addition, a 10 foot wide access path from the edge of the disturbed area to the street or paved driveway must be included in the disturbed area calculation. Provision must be made for stockpile, staging, dumpsters and material storage areas within the limits of disturbance.
- Changes to existing grade elevation of 1-foot or greater.
- Changes to existing drainage patterns. (TES)

R-2 The building permit plans shall comply with requirements of City Code Section 8-1-22 regarding the location of downspouts, foundation drains and sump pumps. Refer to Memorandum to Industry dated June 18, 2004. [Memorandum is available online at the City web site under Transportation\Engineering and Design\Memos to Industry.]. (TES)

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- R-3 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (TES)
- R-4 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (TES)
- 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. (TES)
- R-6 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2,500 square feet. (TES)
- R-7 Compliance with the provisions of Article XIII of the City's zoning ordinance for storm water quality control is required for any land disturbing activity greater than 2,500 square feet. (TES)

Code Enforcement:

- C-1 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 be taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.
- C-2 Construction permits are required for this project. Plans shall accompany the permit application that fully details the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-3 Sheeting and shoring shall not extend beyond the property line; except when the developer has obtained a written release from adjacent property owners which has been recorded in the land records; or through an approved encroachment process.
- C-4 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-5 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-6 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 an alternative, a 2 hour fire wall may be provided.

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- C-7 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- 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 According to Ethelyn Cox's *Historic Alexandria, Virginia, Street by Street, A Survey of Existing Early Buildings*, a structure was built on this lot during the 19th century. The property is also adjacent to the McVeigh Hospital lot, which was utilized by the Union Army during the Civil War. The property therefore has the potential to yield archaeological resources which could provide insight into domestic and military activities in 19th-century Alexandria.
- F-2 If this project is a federal undertaking or involves the use of any federal funding, the applicant shall comply with federal preservation laws, in particular Section 106 of the National Historic Preservation Act of 1966. The applicant will coordinate with the Virginia Department of Historic Resources and the federal agency involved in the project, as well as with Alexandria Archaeology.
- R-1 *The applicant/developer shall 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 applicant/developer shall not allow any metal detection to be conducted on the property, unless authorized by Alexandria Archaeology.
- R-3 The statements in archaeology conditions above marked with an asterisk (*) shall appear in the General Notes of all site plans and on all site plan sheets that involve demolition or ground disturbance (including Erosion and Sediment Control, Grading, and Sheeting and Shoring) so that on-site contractors are aware of the requirements. Additional statements to be included on the Final Site Plan will be determined in consultation with Alexandria Archaeology.

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.