

EXHIBIT NO. 1

8
10-13-07

Docket Item #9
ENCROACHMENT #2007-0007

Planning Commission Meeting
October 2, 2007

ISSUE: Consideration of a request for encroachment into the public right-of-way for brick piers and a brick fence.

APPLICANT: James P. Warbasse
by Duncan W. Blair, Esq.

STAFF: Richard W. Bray
Richard.bray@alexandriava.gov

LOCATION: 700 South Royal Street

ZONE: RM/Residential

PLANNING COMMISSION ACTION, OCTOBER 2, 2007: On a motion by Mr. Komoroske and seconded by Ms. Fossum, the Planning Commission voted to recommend approval subject to compliance with all applicable codes, ordinances, and staff recommendations. The motion carried on a vote of 7 – 0.

Reason: The Planning Commission agreed with the staff analysis.

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended conditions found in Section III of this report.

ENC #2007-0007
700 South Royal Street



I. DISCUSSION

REQUEST

The applicant, James Warbasse, requests approval of an encroachment into the public right-of-way for a brick wall at 700 South Royal Street.

SITE DESCRIPTION

The subject property is one lot of record with 60 feet of frontage on South Royal Street, 65 feet frontage on Franklin Street and 4,036 square feet of lot area. The subject property is developed with an end unit townhouse. The surrounding properties are all developed with townhouses.



BACKGROUND

On December 8, 2003, City Council approved the vacation of 1,108 square feet of public right-of-way at the subject property (VAC #2003-0006). The area vacated borders Franklin Street and measures 64 feet long by 26 feet deep. In 2005, the Board approved an addition and a new garden wall for this property (BAR Case #2005-0143). However, the work was constructed in such a manner as to differ from the approved building permit drawings.

This application is a request for an encroachment for a garden wall in the area previously vacated along Franklin Street. A garden wall has been constructed in this location. The garden wall as constructed was built so that the pillars for the walls facing Franklin Street encroach into the right-of-way. The owner/applicant has also made application to the Board of Architectural Review for approval of alterations to previously approved plans. The case was heard by the Board on July 18, 2007, but the Board deferred the case pending the applicant providing additional information. The revised plans for the wall are scheduled for hearing by the BAR on October 3, 2007.

PROJECT DESCRIPTION

The applicant requests approval of an encroachment into the public right of way along Franklin Street for a brick wall that is currently under construction. The encroachment of the wall varies between less than an inch to 2.4 inches for 48 feet of the wall. The encroachment is necessary due to an error in the surveying of the site in preparation for building the wall.

ZONING/MASTER PLAN

The subject property is zoned RM/Townhouse zone, and is located in the Old Town Small Area Plan.

II. STAFF ANALYSIS

Staff supports the proposed encroachment. The encroachment ranges from 1 inch to less than 2.5 inches into the public right-of-way. The proposed encroachment does not interfere with the sidewalk along Franklin Street. While the project was not constructed in the location depicted on the approved plans, staff feels that it will not have any impact on the public right-of-way.

Staff recommends approval of the encroachment subject to the following conditions.

III. STAFF RECOMMENDATION

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The applicant (and his or her successors, if any) obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (P&Z) (City Atty)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
3. Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
4. The applicant shall be required to control weeds within 12 feet of their front property line in compliance with City Ordinance No. 2698, 6/12/82, Section 2; Ordinance No. 2878m 11/12/83, Sec 1. (RP&CA)

STAFF: Richard Josephson, Deputy Director, Department of Planning and Zoning;
Richard Bray, Urban Planner.

Staff Note: For commercial properties, the applicant and/or his successors are responsible for payment of an annual charge for such encroachment pursuant to Section 3-2-85 of the City Code.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
- R-2 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
- R-3 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any fence or structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
- F-1 The proposed encroachment does not interfere with the sidewalk along Franklin Street. (T&ES)

Code Enforcement:

- F-1 No comments received.

Health Department:

- F-1 No comment.

BAR:

- F-1 The subject property is located in the Old and Historic Alexandria Historic District and is under the jurisdiction of the Old and Historic Alexandria Board of Architectural Review. This application is a request for an encroachment for a garden wall for the property located at 700 South Royal Street. The proposed encroachment is for area along Franklin Street. A garden wall has been constructed as of this application. In 2005, the Board approved an addition and a new garden wall for this property (BAR Case #2005-0143). However, the work

was constructed in such a manner as to differ from the approved building permit drawings. The garden wall as constructed was built so that the pillars for the walls facing Franklin Street encroach into the right-of-way. The owner/applicant has also made application to the Board of Architectural Review for approval of alterations to previously approved plans. The case was heard by the Board on July 18, 2007, but the Board deferred the case pending the applicant providing additional information. The applicant is reminded that any future exterior changes, including new or replacement signage, lighting, window replacement, fencing, kitchen exhaust and/or new HVAC vents or fixtures, or other alterations visible from a public right-of-way would need to be submitted for review and approval by the BAR Staff and the Board of Architectural Review. It is the applicant's responsibility to inform BAR Staff when new signage, lighting, or other external alterations are proposed which require BAR review and approval.

Parks & Recreation:

- R-1 The applicant shall be required to control weeds within 12 feet of their front property line in compliance with City Ordinance No. 2698, 6/12/82, Section 2; Ordinance No. 2878m 11/12/83, Sec 1.

Police Department:

- F-1 The Police Department has no objections to the fence encroachment.

Real Estate:

- F-1 No comment.



APPLICATION

ENCROACHMENT

ENC# 2007-0007

PROPERTY LOCATION: 700 South Royal Street

TAX MAP REFERENCE: 080.02 08 39

ZONE: RM

APPLICANT

Name: James P. Warbasse

Address: 700 South Royal Street, Alexandria, Virginia 22314

PROPERTY OWNER

Name: James P. Warbasse

Address: 700 South Royal Street, Alexandria, Virginia 22314

PROPOSED USE: Adoption of an encroachment ordinance to permit the
encroachment of seven (7) brick piers of a brick and wrought
iron fence onto the public right of way of Franklin Street as
shown on the attached plat.

INSURANCE CARRIER (copy attached) Nationwide **POLICY #** 53H0480-500

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

☒ **THE UNDERSIGNED** hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

☒ **THE UNDERSIGNED** hereby applies for an Administrative Use Permit in accordance with the provisions of Article VI, Section 6-600 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

☒ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

☒ **THE UNDERSIGNED** I so attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

LAND, CLARK, CARROLL, MENDELSON & BLAIR, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent

524 King Street

Mailing/Street Address

Alexandria, Virginia 22314

City and State

Zip Code

Signature

703 836-1000

703 549-3335

Telephone #

Fax #

dblair@landclark.com

Email address

July 24, 2007

Date

Application Received: _____

Date and Fee Paid: \$ _____

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

ENL 2007-0001

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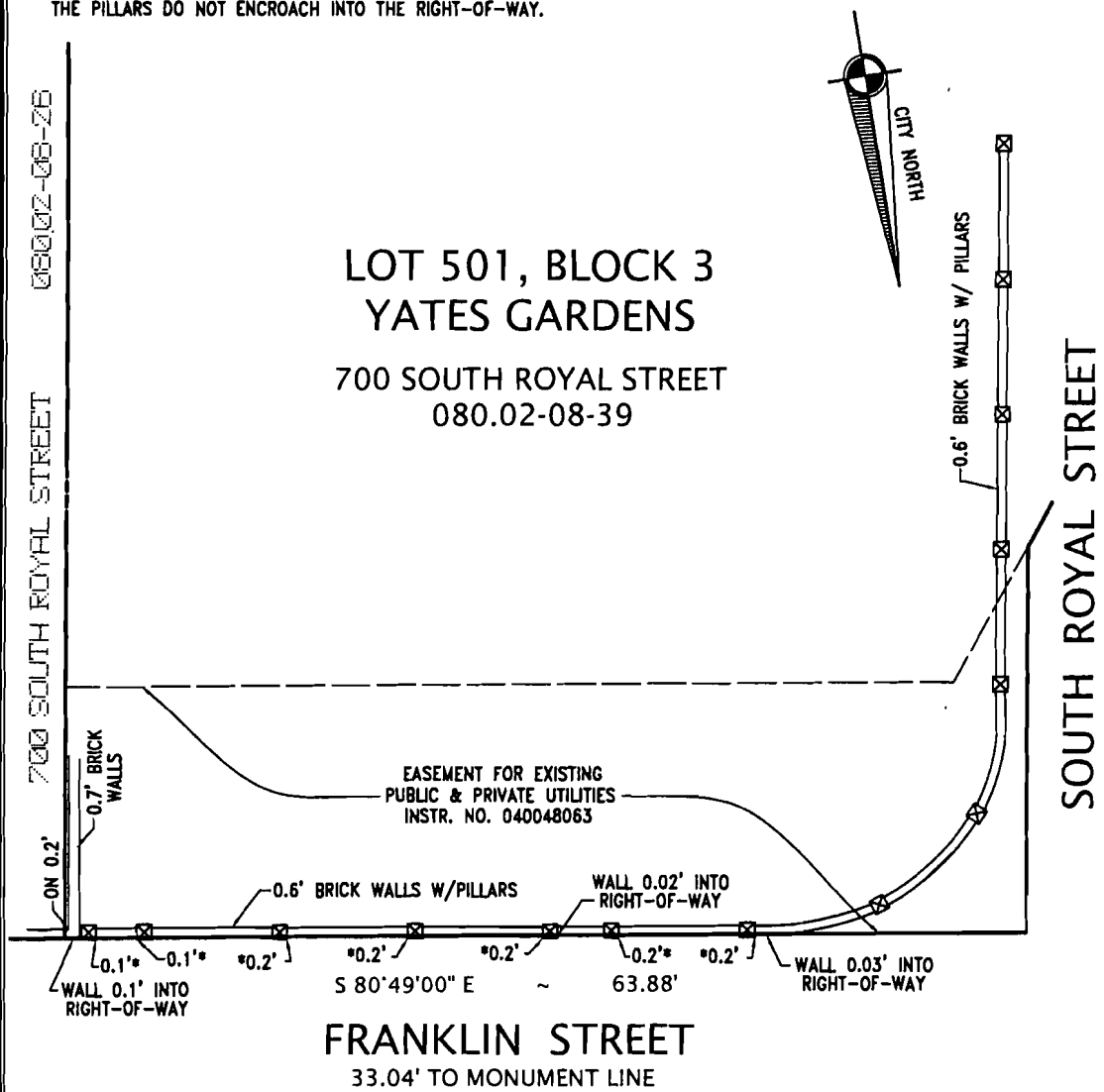
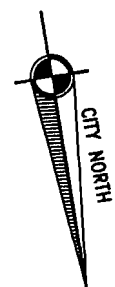
* DENOTES EXTENT OF ENCROACHMENT OF BRICK PILLAR INTO STREET RIGHT-OF-WAY. EXCEPT AS NOTED, WALLS BETWEEN THE PILLARS DO NOT ENCROACH INTO THE RIGHT-OF-WAY.

08002-08-26

700 SOUTH ROYAL STREET

LOT 501, BLOCK 3
YATES GARDENS

700 SOUTH ROYAL STREET
080.02-08-39

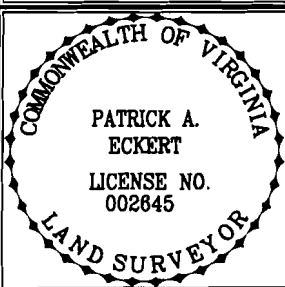
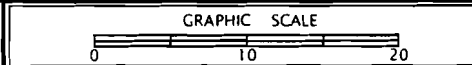


FRANKLIN STREET

33.04' TO MONUMENT LINE

PLAT
SHOWING IMPROVEMENTS WITHIN
A PORTION OF
FRANKLIN STREET
CITY OF ALEXANDRIA, VIRGINIA
SCALE: 1" = 10' MARCH 12, 2007

CASE NAME: **WARBASSE**



BY PROVISIONS OF THE VIRGINIA CODE: NO CORNER MARKERS SET, BOUNDARY SURVEY NOT PERFORMED.
PLAT SUBJECT TO RESTRICTIONS OF RECORD, TITLE REPORT NOT FURNISHED.

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY, AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

Patrick A. Eckert
PATRICK A. ECKERT L.S.

REQUESTED BY:
WARBASSE

ALEXANDRIA SURVEYS
INTERNATIONAL, LLC
6343 SOUTH KINGS HIGHWAY ALEXANDRIA, VIRGINIA 22306
TEL. NO. 703-660-6615 FAX NO. 703-768-7764

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Telephone #

Fax #

dblair@landclark.com

Email address

July 24, 2007

Date

Application Received: _____

Date and Fee Paid: \$ _____

ACTION - PLANNING COMMISSION: recommended approval
7-0 10-02-07

ACTION - CITY COUNCIL: CC approved the recommendation
10/13/07

2-7