ADDRESS: 5247 SEMINARY ROAD
ZONE: R-12, RESIDENTIAL
APPLICANT: ORLANDO PEREZ, OWNER

ISSUE: Special exception to construct a two-story addition in line with the existing house front building wall in the required front yard facing Seminary Road.

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*Based on the average prevailing front setback along the Seminary Road block face.

Staff **recommends approval** of the request because the applicant request meets the criteria for a special exception.

If the Board decides to grant the requested special exception it must comply with the code requirements under the department comments and the applicant must submit the following prior to the release of a Certificate of Occupancy: (1) a survey plat prepared by a licensed surveyor confirming building footprint, setbacks, and building height compliance from average preconstruction grade and (2) certification of floor area from a licensed architect or engineer. 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.
I. **Issue**
The applicant requests a special exception to build a two-story addition in line with the existing front wall of the single-family dwelling located at 5246 Seminary Road.

II. **Background**
The subject property, a corner lot, is one lot of record with 192.85 feet of frontage on Fillmore Avenue, 47.41 feet of frontage on Seminary Road and a depth of 217.67 feet along the south property line. The property totals 15,656 square feet. A one and one-half story single-family dwelling with a basement is located 36.10 feet from the front property lines facing Seminary Road, 20.60 feet facing Fillmore Avenue and 25.30 feet facing the east side yard property line. According to real estate assessment records, the house was constructed in 1937.

III. **Description**
The applicant is proposing to construct a two-story addition in line with the main front wall of the existing house facing Seminary Road and remove the existing half-story of the main house to create a two-story dwelling.

The existing house is located 36.10 feet from the property line facing Seminary Road. The existing front building wall facing Seminary Road is deemed a noncomplying front wall because it is located forward of the average prevailing front setback facing Seminary Road. If a new house were built facing Seminary Road it would have to be located 43.40 feet from the front property line facing Seminary Road. Because the applicant proposes to build a new addition in line with the front building wall the house facing Seminary Road the proposed improvement is eligible to apply for a special exception that alters one noncomplying wall.
The proposed addition facing Fillmore Avenue complies with the required average prevailing setback of 30.92 feet facing Fillmore Avenue. The height of the completed structure will be 22.58 feet and requires a side yard setback of 11.30 feet. The addition complies with the side yard requirement.

Upon completion of all work, the proposed addition and renovations to the existing house will continue to comply with the floor area requirements. (Refer to floor area calculations)

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

**Master Plan/Zoning**
The subject property is zoned R-12 and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Alexandria West Small Area Plan for Residential land use.
IV. **Requested Special Exception**

Section 7-2503 Front Yard:
A special exception is being sought to build in line with the existing dwelling’s front building wall facing Seminary Road. The required front setback is 43.40 feet. The existing house is located 36.10 feet from the front property line facing Seminary Road. The applicant requests a special exception of 7.30 feet.

V. **Noncomplying structure**
The existing building at 5247 Seminary Road is a noncomplying structure with respect to the following:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Required</th>
<th>Existing</th>
<th>Noncompliance</th>
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<tbody>
<tr>
<td>Front Yard (Seminary Road)</td>
<td>43.40 feet</td>
<td>36.10 feet</td>
<td>7.30 feet</td>
</tr>
<tr>
<td>Front Yard (Fillmore Ave)</td>
<td>30.92 feet</td>
<td>20.60 feet</td>
<td>10.32 feet</td>
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</table>

VI. **Special Exceptions Standards**
To grant a special exception, the Board of Zoning Appeals must find that the strict application of the zoning ordinance creates an unreasonable burden on the use and enjoyment of the property. Section 11-1304 of the zoning ordinance lists standards that an applicant must address and that the Board believes exists and thus warrants granting a special exception of the zoning regulations.

1) Whether approval of the special exception will be detrimental to the public welfare, to the neighborhood or to the adjacent properties.

2) Whether approval of the special exception will impair an adequate supply of light and air to the adjacent property, or cause or substantially increase traffic congestion or increase the danger of fire or the spread of fire, or endanger the public safety.

3) Whether approval of the special exception will alter the essential character of the area or zone.

4) Whether the proposal will be compatible with the development in the surrounding neighborhood.
5) Whether the proposed development represents the only reasonable means and location on the lot to accommodate the proposed structure given the natural constraints of the lot or the existing development of the lot.

VII. **Staff Analysis**

The applicant proposes to build an addition in line with the front building wall of a single-family dwelling that is now located forward of the required front setback facing Seminary Road. The existing front building wall is now noncomplying and therefore the project is eligible to apply for a special exception.

The proposed two-story addition will be in character and compatible with other two-story dwellings in the neighborhood nor will it appear to negatively impact the adjacent property to the immediate south. The subject property is more than 3,000 square feet larger in area than required by the R-12 zone (12,000 square feet versus 15,656 square feet provided). The proposed renovation to the existing house and two additions can be accommodated on the lot within the allowable floor area.

The applicant worked with staff to place the new addition in compliance with the required front setback facing Fillmore Avenue thereby not triggering a variance application to the Board.

Based upon the above findings, staff **recommends approval** of the requested special exception.
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 The building permit plans shall comply with requirements of City Code Section 5-6-224 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.]. (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 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-5 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2,500 square feet. (T&ES)

R-6 Compliance with the provisions of Article XIII of the City’s zoning ordinance for stormwater quality control is required for any land disturbing activity greater than 2,500 square feet. (T&ES)

R-7 The building permit must be approved and issued prior to the issuance of any permit for demolition. (T&ES)

R-8 Construction of a new driveway entrance, or widening of an existing driveway entrance, requires separate application to; and approval from, the Department of Transportation and Environmental Services. (T&ES)

F-1 An approved grading plan may be required at the time of building permit application. Insufficient information has been provided to make that determination at this time. In summary, City Code Section 5-6-224 requires that a grading plan be submitted to and approved by T&ES prior to the issuance of building permits for improvements involving:
• the construction of a new home;
• construction of an addition to an existing home where either
Questions regarding the processing of grading plans should be directed to the T&ES Site Plan Coordinator at (703) 746-4064. Memorandum to Industry No. 02-08 was issued on April 28, 2008 and can be viewed online via the following link. http://alexandriava.gov/uploadedFiles/tes/info/gradingPlanRequirements.pdf

C-1 The applicant shall comply with the City of Alexandria’s Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (T&ES)

C-2 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)

C-3 Roof, surface and sub-surface drains be connected to the public storm sewer system, if available, by continuous underground pipe. 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. (Sec.5-6-224) (T&ES)

C-4 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3) (T&ES)

C-5 Pay sanitary sewer tap fee prior to release of Grading Plan. (Sec. 5-6-25) (T&ES)

C-6 Any work within the right-of-way, to include public alleys, requires a separate permit from T&ES. (Sec. 5-2) (T&ES)

Code Administration:
F-1 No comments relative to variance request

C-1 A building permit is required for the proposed work. Submit five sets of drawings with the permit application.

C-2 Separate permits are required for plumbing, electric, and mechanical work

C-3 The proposed construction shall conform to the requirements of the Virginia Uniform Statewide Building Code.
Recreation (Arborist):
F-1 No specimen trees are affected by this plan.

Historic Alexandria (Archaeology):
There is low potential for significant archaeological resources to be disturbed by this project. 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.
VIII. Images
- BACK SIDE OF THE HOUSE
RIGHT SIDE OF THE HOUSE
LEFT SIDE OF THE HOUSE (FILLMORE ST)
**ADDRESS:** 5247 SEMINARY RD  
**ALEXANDRIA, VA 22311**  
**OWNER:** ORLANDO PEREZ

**NOTES - STRUCTURAL**

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**LATERAL LOADS**

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**BZA CASE #2010-0028**

**ADDITION - TWO STORY W/ CRAWL SPACE ATTACHED TO EXISTING HOUSE**

**STRUCTURAL**

- 1. Sheetdecks shall be designed for the required live and dead loads in accordance with the International Building Code (IBC) and the local building code. The live load shall be 30 psf, and the dead load shall be 10 psf. The total load shall be 40 psf.
- 2. The frame shall be designed to withstand a wind speed of 100 mph, as per the local building code. The wind load shall be calculated using the Uniform Building Code (UBC) and the local building code.
- 3. The foundation shall be designed to support the building, taking into account the soil conditions and the weight of the building. The foundation shall be designed to resist the lateral forces caused by the wind and the dead load.
- 4. The building shall be designed to meet the fire resistance requirements of the local building code. The building shall be classified as a one-story building.
- 5. The building shall be designed to meet the seismic resistance requirements of the local building code. The building shall be classified as a non-structural building.
- 6. The building shall be designed to meet the energy conservation requirements of the local building code. The building shall be classified as a high-performance building.

**COMMENT**

- 1. The builder shall be responsible for the design and construction of the building, including the structural design and the mechanical, electrical, and plumbing systems.
- 2. The builder shall obtain all necessary permits and approvals from the local building department.
- 3. The builder shall ensure that the building is constructed in accordance with the approved plans.
- 4. The builder shall provide a warranty for the building, including the structural warranty and the mechanical, electrical, and plumbing systems warranty.

**BZA CASE #2010-0028**

**ADDENDUM - TWO STORY W/ CRAWL SPACE ATTACHED TO EXISTING HOUSE**

**ADDRESS:** 5247 SEMINARY RD  
**ALEXANDRIA, VA 22311**  
**OWNER:** ORLANDO PEREZ

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APPLICATION
BOARD OF ZONING APPEALS

VARIANCE

Section of zoning ordinance from which request for variance is made:

______________________________________________________________

PART A

1. Applicant: [ ] Owner [ ] Contract Purchaser [ ] Agent
   Name Orlando Perez
   Address 5247 Seminary Road
            Alexandria VA 22311
   Daytime Phone 703-998-9291
   Email Address seymoredaagmail.com

2. Property Location 5247 Seminary Road, Alexandria VA 22311

3. Assessment Map # Block Lot Zone

4. Legal Property Owner Name Orlando Perez
   Address 5247 Seminary Road, Alexandria VA 22311
OWNERSHIP AND DISCLOSURE STATEMENT
Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

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<th>Name</th>
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2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

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<tr>
<td>1. Orlando Pgreso</td>
<td>5247 Sawney Rd</td>
<td>100%</td>
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3. Business or Financial Relationships. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or other Boards of Architectural Review.

<table>
<thead>
<tr>
<th>Name of person or entity</th>
<th>Relationship as defined by Section 11-350 of the Zoning Ordinance</th>
<th>Member of the Approving Body (i.e. City Council, Planning Commission, etc.)</th>
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NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearing.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

Date: 11/4/10
Printed Name: Orlando Pgreso
Signature: [Signature]

6
Updated 5/1/2010

Definition of business and financial relationship.

Section 11-305 of the Zoning Ordinance defines a business or financial relationship as any of the following:

1. a direct one;
2. by way of an ownership entity in which the member or a member of his immediate household is a partner, employee, agent or attorney;
3. through a partner of the member or a member of his immediate household;
4. through a corporation in which any of them is an officer, director, employee, agent or attorney or holds 10 percent or more of the outstanding bonds or shares of stock of a particular class. In the case of a condominium, this threshold shall apply only if the applicant is the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium;
5. not as an ordinary customer or depository relationship with a professional or other service provider, retail establishment, public utility or bank, which relationship shall not be considered a business or financial relationship;
6. created by the receipt by the member, or by a person, firm, corporation or committee on behalf of the member, of any gift or donation having a value of more than $100, singularly or in the aggregate, during the 12-month period prior to the hearing on the application from the applicant.
5. **Describe request briefly:**

The intent is to construct an addition of two-story, two-car garage attached to an existing house.

The new setback requirements require 35.3' at the front yard on Boundary Road and 36.1' on Fillmore Avenue, but our proposed project is 36.1' on Boundary Road and 30.2' on Fillmore Avenue.

6. **If property owner or applicant is being represented by an authorized agent, such as an attorney, realtor, or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?**

[ ] Yes — Provide proof of current City business license.

[ ] No — Said agent shall be required to obtain a business license prior to filing application.

**THE UNDERSIGNED HEREBY ATTESTS** that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct, and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

**APPLICANT OR AUTHORIZED AGENT:**

_Process Name_  

_Process Signature_  

_Process Date_  

**Telephone**  

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or $2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.
PART B (SECTION 11-1102)

NOTE: The Board of Zoning Appeals may grant a variance only if the applicant can demonstrate a legal hardship. A legal hardship refers to the shape and topographical conditions, or to some other unique characteristic of the property; for example, if a rear yard has sharp drop-off or hilly terrain where an addition could otherwise be located legally, or if the property has three front yards.

A legal hardship is NOT, for example, having a large family in a two-bedroom house, or that you need a first-floor bedroom and bath. (These are good personal reasons for a variance, but do not constitute a legal hardship having to do with specific conditions of the land.)

APPLICANT MUST explain the following:
(Please print clearly and use additional pages where necessary.)

1. Does strict application of the zoning ordinance to the subject property result in a hardship to the owner? (Answer A or B).

   A. Explain how enforcement of the zoning ordinance will amount to confiscation of the property.

   B. Explain how enforcement of the zoning ordinance will prevent reasonable use of the property.

   Attached

2. Is this hardship unique to the property?

   A. Explain if the hardship shared by other properties in the neighborhood.

   Attached
B. Explain how this situation or condition of the property (on which this application is based) applies generally to other properties in the same zone.

Attached

3. Was the hardship caused by the applicant?
   
   A. Did the condition exist when the property was purchased?
      Attached

   B. Did the applicant purchase the property without knowing of this hardship?
      Attached

   C. How and when was the condition, which creates the hardship, first created?
      Attached

   D. Did the applicant create the hardship and, if so, how was it created?
      Attached
4. Will the variance, if granted, be harmful to others?

A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood in general.

B. Explain how the proposed variance will affect the value of the adjacent and nearby properties.

C. Has the applicant shown the proposed plans to the most affected property owners? Has that neighbor objected to the proposed variance, or has the neighbor written a letter of support of the proposed variance? If so, please attach the letter.

D. Explain how the proposed variance will change the character of the neighborhood.
5. Is there any other administrative or procedural remedy to relieve the hardship? 

Attached

PART C

1. Have alternative plans or solutions been considered so that a variance would not be needed? Please explain each alternative and why it is unsatisfactory.

Attached
DEPARTMENT OF PLANNING AND ZONING
FLOOR AREA RATIO AND OPEN SPACE CALCULATIONS FOR
SINGLE AND TWO-FAMILY RESIDENTIAL OUTSIDE HISTORIC DISTRICTS

A. Property Information

<table>
<thead>
<tr>
<th>A1. Street Address</th>
<th>5427 Seminary Road</th>
<th>Zone</th>
<th>R-12</th>
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B. Existing Gross Floor Area

<table>
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<tr>
<th>Existing Gross Area</th>
<th>Allowable Exclusions</th>
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<td>Basement</td>
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<tr>
<td>First Floor</td>
<td>839.60</td>
</tr>
<tr>
<td>Second Floor</td>
<td>634.04</td>
</tr>
<tr>
<td>Third Floor</td>
<td>2nd Floor</td>
</tr>
<tr>
<td>Porch/Other</td>
<td>4th Floor</td>
</tr>
<tr>
<td>Total Gross</td>
<td>2212.8</td>
</tr>
</tbody>
</table>

B1. Existing Gross Floor Area

B2. Allowable Floor Exclusions

B3. Existing Floor Area minus Exclusions

C. Proposed Gross Floor Area (does not include existing area)

<table>
<thead>
<tr>
<th>Proposed Gross Area</th>
<th>Allowable Exclusions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basement</td>
<td>689.6</td>
</tr>
<tr>
<td>First Floor</td>
<td>1132.4</td>
</tr>
<tr>
<td>Second Floor</td>
<td>2050.6</td>
</tr>
<tr>
<td>Third Floor</td>
<td>156.80</td>
</tr>
<tr>
<td>Porch/Other</td>
<td>Attic less than 5**</td>
</tr>
<tr>
<td>Total Gross</td>
<td>4029.75</td>
</tr>
</tbody>
</table>

C1. Proposed Gross Floor Area

C2. Allowable Floor Exclusions

C3. Proposed Floor Area minus Exclusions

D. Existing + Proposed Floor Area

<table>
<thead>
<tr>
<th>Total Floor Area</th>
<th>Existing + Proposed</th>
<th>Total Exclusions</th>
</tr>
</thead>
<tbody>
<tr>
<td>(add B3 and C3)</td>
<td>3560.23</td>
<td>1458.72</td>
</tr>
<tr>
<td>(A2) Total</td>
<td>4696.80</td>
<td></td>
</tr>
</tbody>
</table>

D1. Total Floor Area (add B3 and C3)

D2. Total Floor Area Allowed by Zone (A2)

F. Open Space Calculations Required in RA & RB zones

<table>
<thead>
<tr>
<th>Open Space</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
</table>

*Gross floor area for residential single and two-family dwellings in the R-20, R-12, R-8, R-5, R-2.5, RB and RA zones (not including properties located within a Historic District) is the sum of all areas under roof on a lot, measured from exterior walls.

**Refer to the zoning ordinance (Section 2-145[A]) and consult with zoning staff for information regarding allowable exclusions.

The undersigned hereby certifies and attests that, to the best of his/her knowledge, the above computations are true and correct.

Signature: [Signature]
Date: 12/6/10

Updated July 10, 2006
PART B (SECTION 11-1102)

1. B Our intention is to construct a bigger and comfortable house of such manner have individual space for each one; one bedroom for me and my wife, 4 bedrooms for my children and one bedroom for my Mom.

The existing house has 906 square feet; three bedrooms, one living room, one bathroom and one kitchen. Basically we live in a small house and we like to improve our living conditions making an addition attached to existing house.

The new setbacks requirements applying to this property make that we have a narrow space available to construct any addition but it does not work with our project. Therefore we request that you consider and permit us to construct a spacious house with a good view to both front yards (Seminary Road and Fillmore Avenue).

2. A No. The property is unique in the neighborhood of such manner we request the approval of this variance. We understand that you intend to provide a better restructuration but the new regulation affect just to us and we feel like unlucky property owners.

2. B It does not apply generally to other properties in the zone.

The property condition with its shape and topographical are different from the others properties in the zone.

3. A No it did not. Purchase of the property was made prior to the current “AVERAGE OF BLOCK FACADES or AVERAGE PREVALING”. The property was acquired in good faith and any hardship produced by the Ordinance was not created by the Owner.

The existing front yards are: 36.1 feet to Seminary Road and 20.8 to Fillmore Avenue without consider the screened porch that is 12.5 feet. But now the NEW REQUIREMENT SETBACK “AVERAGE OF BLOCK FACADES or AVERAGE PREVALING” is 43.3 feet to Seminary Road and 36.1 feet to Fillmore ST.

3. B Yes they assumed the whole property was in conformance with zoning and did not expect that the new regulations would affect the conditions of the property.

Where the new regulations require two changes under the Infill Regulations that were adopted in 2008 has to deal with the average prevailing for front yard setback and height.

3. C The Hardship was created recently by Zoning Ordinance in June 2008 where the new requirement setback is “AVERAGE OF BLOCK FACADES or AVERAGE PREVALING”. Before it was different at moment when we bought the property in 2000 and was noncompliant property.
Before the new regulation that created the hardship it was different with the front setback under the R-12 zone that was 35 feet but, under the new Infill we will be required to move the house back 7.53 feet which constitute a variance. Beside we consider that is not fair and applicable count the property that is located at 5205 Seminary Road for AVERAGE PREVAILING because its front setback is 58.50 feet and this data is a total disadvantage. The average prevailing is 43.40 feet to Seminary Road.

3. D No the applicant did not. The hardship was created by Zoning Ordinance.

4. A The proposed variance won't be detrimental to the adjacent properties or the neighborhood in general. Because the proposed project has as objective maintain the same setback at front yard "Seminary Road" that means align the proposed addition with the existing front side wall and construct the new addition at second front yard Fillmore Avenue to 30.2 feet.

4. B The proposed variance won't affect adversely the nearby properties.

4. C We spoke and show the drawings of the proposed project to the most neighbors of our neighborhood.

4. D The proposed variance will affect the character of the neighborhood just increasing the value of the properties and enhancing the view.

5. We don't think so. Because the new setback requirement makes the property so narrow considering that the location is in a corner and the house building is near to the front yard of Seminary Road.

PART C

1. The alternatives would go back 7.53 feet at the front yard of Seminary Road that means that I would have a narrow space available to construct the new addition for the house and the view would be detrimental for the neighborhood. We can have another alternative but this is out of our reach because would be an expensive and inappropriate project that consists in relocate the house to the middle point of the property. Such manner we can have enough space for the setbacks at the front yard of Seminary Road and Fillmore Avenue but this could have a negative view in the neighborhood, specifically on Seminary Road where the new restructuration or new Front Yard would increase significantly comparing to the other front yards of the other properties.