

Docket Item #6
BZA CASE #2003-00064

Board of Zoning Appeals
December 11, 2003

ADDRESS: 122 PRINCE STREET
ZONE: RM, RESIDENTIAL
APPLICANT: JAMES AND CHRISTINE GARNER, OWNERS

ISSUE: Variance to construct a new single-family dwelling located in the required rear yard and the relocation of an existing curb cut.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-1106(A)(3)(a)	Rear Yard	16.00 ft*	0.00 ft	16.00 ft
8-200(C)(5)(a)	Curb Cut	Alley or Interior Court	Street Access	Street Access

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

Insert sketch here.

STAFF CONCLUSION:

This property does not meet the criteria for a variance.

DISCUSSION:

1. The applicants proposes to (1) demolish an existing metal garage structure, (2) build a three-story single-family dwelling with a rear two-story addition located in the required rear yard and (3) relocate an existing curb cut at 122 Prince Street.
2. 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 10.00 feet wide abuts the property along the east property line. As indicated on the submitted plat, the applicants' property includes half of the alley width. An existing curb cut is located near the east side property line provides access to the metal garage structure which at one time provided off-street parking for the property at 123 Prince Street.
3. The proposed three-story single-family detached dwelling is located on the front property line facing Prince Street, 5.00 feet from the east side property line, 12.00 feet from the west side property line and on the rear property line. As seen from Prince Street, the house is a little over 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 38.50 feet to the roof ridge. As shown on the submitted plat, the proposed house will not encroach into the 10.00 feet wide alley to the east. As indicated on the submitted plat, the house will be located on the rear property line. A variance of 16.00 feet to build up to the rear property line is required.
4. The proposed house will comply with the floor area, side yard setbacks and open space requirements for a new detached single-family dwelling in the RM zone. The house will not comply with the rear yard setback requirement and access to off-street parking from the existing alley or court as required by the zoning regulations. In order to allow for a new curb cut access from Prince Street the applicants must seek variance approval.
5. 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. However, the applicants plan to provide two non-required parking spaces. Access to the spaces will be from a new curb cut facing Prince Street. In the RM zone where two off-street parking spaces are provided, one surface parking space may be counted towards the open space requirement.

6. On June 24, 1992, the current zoning ordinance was adopted which prohibits new curb cuts in the RM zone, specifically affecting properties in the two Historic Districts. The purpose of the prohibition was to preserve the historic streetscape and enhance pedestrian experience.
7. This property is located in the Old and Historic Alexandria District. Board of Architectural Review approval is required for demolition of the existing building on the site and for the design of the new house. The applicant has 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.
8. BAR staff objects to the relocation of the curb cut. Placing the curb cut on the west side of the property is immediately adjacent to 126 Prince Street, one of oldest buildings in the historic district dating from the late 18th century. At least portions of the house survived the January 1827 fire. The siding on the east elevation of 126 Prince Street is unpainted and the Board of Architectural Review has required that it remain so. Locating a car immediately to the west of this elevation will visually screen the siding and alter the historic perception of the building.
9. There have been no variances previously approved for the subject property.
10. Since 1990, there have been no similar variance applications heard by the Board in the immediate neighborhood.
11. 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.

REQUESTED VARIANCES:

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.

Section 8-200(C)(5)(a), Curb Cut Access:

The zoning ordinance requires access to surface required or non-required parking for property located in the Old and Historic District to be from an alley or interior court. An interior court is one that serves more than one dwelling. The applicants are requesting a variance to permit a new curb cut access from Prince Street to non-required surface parking spaces.

STAFF ANALYSIS UNDER CRITERIA OF SECTION 11-1103:

1. Does strict application of the zoning ordinance result in undue hardship to the property owner amounting to a confiscation of the property, or prevent reasonable use of the property?
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There is no hardship. The lot is level and there is no condition of the lot which restricts the reasonable use or development of a new single-family dwelling. No trees will be affected by the placement of a new house on the lot. The subject property is larger than the minimum lot size required for an RM zoned lot and the lot width nearly twice the size for a single-family lot.

There is also no finding of hardship with regard to relocation or placement of a new curb cut to the serve the property. The applicants could use the existing curb cut to serve the new house. The need for a variance to simply accommodate a larger house does not rise to the level of a hardship. A different development configuration such as a smaller house that respects the rear yard requirement as well as reuse of the existing driveway can be achieved.

The issue in this case is whether having a residential property in Old Town without on site parking creates a legal hardship. Staff does not believe that it does, given that there is an existing curb cut to be used and the fact that much of Old Town is characterized by lots without off-street parking and similar building placement condition. Strict application of the zoning ordinance will not prevent reasonable use of the property. Because the access to required off-street parking must be from an alley or court, the applicants are exempt from providing the required parking space. The applicants' needs can be meet by using the existing curb cut to serve their required parking needs or to provide no parking.

2. Is the hardship identified above unique to the subject property, or is it shared by other properties in the neighborhood or the same zone?
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There is no hardship. The lot is a large buildable lot that can be developed without the need of a variance. The lot's characteristics are similar to other lots within this section of Prince Street. Many of the homes in Old Town lack on site parking. The applicants are fortunate in that the property has an existing curb cut that could be used which the applicants desire to forgo. Nor is the property different from most of the lots on the block. The property is not unique. The property, in fact, shares the primary characteristics of the majority of lots which the curb cut prohibition is intended to preserve.

3. Was the hardship caused by the applicant and, if so, how was it created? Or did the condition exist when the property was purchased and, if so, did the applicant acquire the property without knowing of the hardship; how was the hardship first created?
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There is no hardship in this case.

The applicants were aware, when they purchased the property, that there was an existing curb cut that could be used to serve the required off-street parking. There are in fact exempt from providing required parking. The 100 block of Prince Street is one where the predominant historic pattern is no curb cuts. New curb cuts will affect the historic character of the block and not preserve the historic streetscape and disrupt the pedestrian experience. The need for non required off-street parking does not constitute a hardship.

4. Will the variance, if granted, be harmful in any way to any adjacent property or harm the value of adjacent and nearby properties? Will it change the character of the neighborhood?
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Granting the variance will be detrimental to the adjacent property to the east. Although the new house will be located 5.00 feet from the east side property line to comply with the side yard requirement to provide some relief from the building mass facing the side property line and to allow for possible windows rather than a three or four-story blank wall facing the neighbor, the new house will extend the entire lot length (from the front lot line to the rear lot line). The neighbor will now view 44.33 feet of building wall. Staff believes that for design purposes the house could be reduced in length to provide building relief to the neighboring properties. To provide an open ground level area at least 16.00 feet (the minimum rear yard setback requirement) would reduce the new house length from 44.33 feet to 28.33 feet which is not unreasonable for an RM zoned lot.

The granting of the requested variance will be detrimental to the neighborhood which is served by few curb cuts. The subject property will no longer maintain and compliment the existing development pattern and land use on Prince Street where street parking is the norm. In addition, staff is concerned generally about this case creating a precedent for other requests for curb cuts in Old Town, although this case could be distinguished from some others in that there is an existing curb cut near where one is being requested.

5. Have alternate plans been considered so that a variance would not be needed?
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None that would meet the applicants' needs. Staff believes the applicants should explore alternative design solutions to eliminate the need to building on the required rear yard and the to lower the height of the building. As it is now proposed, the applicants are requesting extensive relief to place a large building extending from the front property line to the rear property line with little rear open space or building mass relief to the most immediately impacted neighbor to the east.

6. Is any other official remedy available to relieve the hardship?
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No other remedy exists except a variance.

STAFF: Barbara Ross, Deputy Director, and Peter Leiberg, Principal Planner, Department of Planning and Zoning

DEPARTMENTAL COMMENTS

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.(Ord. #4287)
- C-3 Any work within the right-of-way requires a separate permit from T&ES.(Sec. 5-3-61)
- 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.
- R-1 The existing granite flow line (gutter) shall be protected and maintained during construction activity.
- R-2 Design for construction of the relocated driveway apron, brick sidewalk and curbing shall be to the satisfaction of the Director of T&ES and shall be approved prior to issuance of a building permit.
- R-3 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity.
- R-4 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.

Code Enforcement:

- C-1 All exterior walls within 3 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 porches with roofs and skylights within setback distance.

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- 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 specimen 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.