

Docket Item #9  
BZA CASE # 2004-0012

Board of Zoning Appeals  
May 13, 2004

**ADDRESS:** 1213 DUKE STREET  
**ZONE:** CL, COMMERCIAL LOW  
**APPLICANT:** JAMES WARBASSE

**ISSUE:** Variance to construct a one car garage in the required .

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| CODE<br>SECTION | SUBJECT          | CODE<br>REQMT | APPLICANT<br>PROPOSES | REQUESTED<br>VARIANCE |
|-----------------|------------------|---------------|-----------------------|-----------------------|
| 4-106 (A)(2)(a) | Side Yard (West) | 8.00 ft*      | 0.00 ft               | 8.00 ft               |

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\* Based on a building height of 8.50 feet from grade to the top of the flat roof of the garage.

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(insert sketch here)

**STAFF RECOMMENDATION:**

The staff **recommends approval** of the variance because the property meets the variance criteria.

**DISCUSSION:**

1. The applicant proposes to construct a detached one-car garage located in the required west side yard to serve the existing home at 1213 Duke Street. As part of the applicant's proposal an open pergola and patio will be constructed along the east wall of the new garage.
2. On May 3, 2003, the Board of Zoning Appeals granted side yard variances to the prior owners to construct a two-story rear addition. The BZA concurred with staff recommendation that the case met the criteria for a variance. (BZA Case#2003-0021 attached).
3. The subject property is one lot of record with 21.00 feet of frontage on Duke Street and a depth of 100.60 feet. The property contains a total of 2,100 square feet.
4. The existing two-story building and two-story rear addition is located 2.50 feet from the front property line facing Duke Street, abuts the adjacent property along the east side property line, 2.50 feet to 8.70 feet from the west side property line and 33.50 feet from the rear property line. Real Estate Assessment records indicate the building was built in 1870. One surface off-street parking space is provided at the rear of the property accessed from Evans Court.
5. The proposed detached one car garage measures 12.00 feet by 20.00 feet and totaling 240 square feet in area. The overall height of the garage is 8.50 feet to the top of the flat roof. The garage will be placed on the west side property line and rear property line 9.00 feet from the east side property line. A variance of 8.00 feet from the west side property line is required.
6. As shown on the submitted building elevations, in conjunction with the new garage an open pergola will be built along the east garage wall. Six foot high gates placed along the rear property line will screen the open patio and pergolia. The zoning ordinance allows a pergola and patio to be included in required open space.
7. Upon completion of the garage the project will continue to comply with open space, rear yard setback and floor area requirements.
8. Since 1990, there have been no similar variance requests for the 1200 block of Duke Street.

9. This property is located in the Old and Historic Alexandria District. The existing main historic block dates from ca. 1870. The proposed garage, rear fence gates and pergola must be reviewed and approved by the Board of Architectural Review, Old and Historic Alexandria District.
10. Master Plan/Zoning: The subject property has always been zoned for commercial use. The property is currently zoned CL, commercial low and has been so zoned since 1992. The property is identified in the adopted King Street/Eisenhower Small Area Plan for commercial low land use.

**REQUESTED VARIANCES:**

Section 4-106 (A)(2)(a), Side Yard:

The CL zone requires a garage to provide two minimum side yard setbacks of 8.00 feet or one-third the building height, whichever is greater. The proposed garage is located on the west side property line. A variance of 8.00 feet is requested and a variance of 8.00 feet from the west side property line is required.

**NONCOMPLYING STRUCTURE:**

The existing building at 1210 Duke Street is a noncomplying structure with respect to the following:

|                  | <u>Required</u> | <u>Provided</u> | <u>Noncompliance</u> |
|------------------|-----------------|-----------------|----------------------|
| Side Yard (East) | 8.00 ft         | 0.00 ft         | 8.00 ft              |
| Front            | 20.00 ft        | 3.00 ft         | 17.00 ft             |

**STAFF ANALYSIS UNDER CRITERIA OF SECTION 11-1113:**

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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The property's only unusual condition is that the lot is narrower than the 50.00 feet lot width required for each single-family dwelling in the CL zone; the lot is 21.00 feet wide. The CL zone also requires two 8.00 foot side yards for each single family dwelling. The resulting lot

width dimension and side yard setbacks create an unreasonable restriction and effectively prohibit the use of the property. Although the applicant is complying with one side yard setback, it will be impossible to comply with the remaining side yard setback without first obtaining a variance. A detached one-car garage cannot be built to comply with both side yard setbacks given the narrowness of the lot..

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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The fact that the side yards required by the zoning ordinance makes building on this CL zone lot impossible is a condition that applies to some properties in the same zone that may wish to construct a detached garage prohibited in those cases also. The subject property is similar in width to the majority of developed lots in the 1200 block of Duke Street. Although the subject lot is larger than the minimum size required for a single-family dwelling zoned CL, commercial low, it is the narrow lot width of 21.00 feet which creates a hardship as to the side yard requirements.

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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Hardship was not created by the applicant or his predecessors.

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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The granting of the requested variance will not be detrimental to adjacent property or the neighborhood and will not alter the essential character of the area. There are several similar sized detached garages located along the rear alley. If the proposed variance is granted, the garage will not exceed the required floor area ratio and will meet the open space requirement. From the street and alley the garage will be in character with similarly developed lots. From the vantage point of the neighbor on the west side, he will see an additional detached new structure where the area is now occupied by a surface parking area. The side yard distances proposed for the garage are common in the neighborhood.

5. Have alternate plans been considered so that a variance would not be needed?

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Alternate plans considered did not meet the desires of the applicants.

6. Is any other official remedy available to relieve the hardship?

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None.

**DEPARTMENTAL COMMENTS**

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

\* The applicant is advised that if the variance or special exception is approved the following additional comments are required.

Transportation and Environmental Services:

- C-1 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 an alternative, a 2 hour fire wall may be provided. This condition is also applicable to porches with roofs and skylights within setback distance.
- 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 be 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 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-7 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-8 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to the issuance of any framing inspection.

Recreation (Arborist):

- F-1 No trees will be affected by this plan.

Historic Alexandria (Archaeology):

- F-1 Ethelyn Cox suggests in *Historic Alexandria, Virginia, Street by Street, A Survey of Existing Early Buildings*, that the house on this lot dates to the mid-1800s. The property therefore has the potential to yield archaeological resources which could provide insight into residential/domestic activities in 19<sup>th</sup>-century Alexandria.
- R-1 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 above statement 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.