

Docket Item # 4
BZA CASE # 2004-00016

Board of Zoning Appeals
June 24, 2004

ADDRESS: 216 EAST TAYLOR RUN PARKWAY
ZONE: R-2-5, RESIDENTIAL
APPLICANT: JEFF GROHARING, OWNER

ISSUE: Variance to construct an open deck in the required north side yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard (North)	10.00 feet	5.00 feet	5.00 feet

(insert sketch here)

STAFF CONCLUSION:

The staff **recommends denial** of the requested variance because the request does not meet the variance criteria.

DISCUSSION:

1. The applicant proposes to construct an open deck on the rear of the dwelling located at 216 East Taylor Run Parkway property.
2. The subject property is one lot of record with 25.00 feet of frontage on East Taylor Run Parkway, a depth of 124.81 feet at its longest dimension and an area of 3,089 square feet. The subject property is developed with a semi-detached dwelling.
3. The existing two-story brick dwelling is currently a noncomplying structure which does not comply with the side yard setback requirement for the R-2-5 zone. The existing house is built 8.60 feet from the north side property line, 25.70 feet from the east front property line, on the south side property line, and 62.00 feet from the west rear property line.
4. Section 12-102(A) of the zoning ordinance states that no noncomplying structure may be physically enlarged or expanded unless such enlargement or expansion complies with the regulations for the zone in which it is located. The subject building does not meet the R-2-5 zone regulations, and the proposed side/rear yard open deck also will not comply with the 10.00 foot minimum setback in the R-2-5 zone.
5. Section 7-202(B)(6) of the zoning ordinance permits in any required yard, except a front yard, open terraces and decks not over 2.00 feet above the ground elevation at any property line.
6. The proposed open rear deck measures 14.00 feet by 18.50. The height of the deck above grade level ranges from 3.00 feet at its lowest point on the north side landing to 10.00 feet at the highest point on the west. Because of the sloping grade at the rear of the properties, if the proposed deck is built the adjoining neighbor while standing in their backyard will view a structure that looms above their backyard.
7. The proposed open deck will be located 5.00 feet from the south side property line.
8. A site inspection revealed that, although some properties in the general area have built side and/or rear decks, the dwellings with larger decks have larger side yards than the applicant's property and were built in compliance with zoning regulations at that time. The subject property and those in the immediate area possess much narrower side yards. Staff research, however, did not find deck permits for properties in the immediate area; thus, staff cannot confirm compliance of these decks.

BZA CASE #2004-00016

- 9. There have been no variances previously granted for the subject property.
- 10. There have been two variances for decks within the immediate area heard by the BZA:

<u>Case #</u>	<u>Date</u>	<u>Address</u>	<u>Variance</u>	<u>Action</u>
98-0026	9-10-98	210 E Taylor Run	Side Setback of 5.50 ft	Granted
99-0018	7-9-99	218 E Taylor Run	Side Setback of 5.00 ft	Granted

- 11. Master Plan/Zoning: The subject property is zoned R-2-5 and has been so zoned since adoption of the Third Revised Zoning Map in 1951, and identified in the Taylor Run/Duke Street Small Area Plan for residential medium land use.

REQUESTED VARIANCES:

Section 3-506 (A) (2), Side Yard:

The R-2-5 zone requires a minimum side yard setback of 10.00 feet. The proposed open deck will be located 5.00 feet from the north side property line. The applicant requests a variance of 5.00 feet from the north side property line.

NONCOMPLYING STRUCTURE:

The existing building at 216 East Taylor Run Parkway is a noncomplying structure with respect to the following:

	<u>Required</u>	<u>Provided</u>	<u>Noncompliance</u>
Side Yard (North)	10.00 ft	8.50 ft	1.50 ft

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?

This property does slope dramatically from the front of the property to the rear, but does not unreasonably restrict the use of the property. No condition of the property creates a hardship or unreasonable restriction. The need for a deck does not create a hardship.

BZA CASE #2004-00016

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?
-

There is no hardship in this case.

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?
-

Staff finds no hardship. The applicant states that he acquired the property without the knowledge of the limited side yard.

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?
-

The requested variance, if granted, will create a larger building mass as seen from adjoining properties. Immediately adjacent properties would be most affected. Because of the sloping grade at the rear of the properties, if the proposed deck is built the adjoining neighbor while standing in their backyard will view a structure that looms above their backyard. Staff does not believe that the approval of more decks will negatively affect the character of the neighborhood; however, if all semi-detached dwellings on East Taylor Run Parkway constructed similar decks, the character of the neighborhood would indeed change. The applicant states that construction of the proposed deck will increase the value of the subject property.

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

No alternative plans were found to be acceptable to the applicants.

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

No.

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 apply.

Transportation and Environmental Services:

F-1 No objections or recommendations.

Code Enforcement:

C-1 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).

C-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

C-3 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction.

Recreation (Arborist):

F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

F-1 There is low potential for this project to disturb significant archaeological resources. 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.