

Docket Item #4
BZA CASE #2004-00029

Board of Zoning Appeals
October 14, 2004

ADDRESS: 6004 LOWELL AVENUE
ZONE: R-12, RESIDENTIAL
APPLICANT: CHARLIE RAPE, OWNER

ISSUE: Variance to construct a second-story open deck in the required east side yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-206(A)(2)	Side Yard (East)	10.00 feet	8.00 feet	2.00 feet

This case was deferred by the applicant prior to the September 22, 2004 hearing.

(insert sketch here)

STAFF CONCLUSION:

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

I. Issue

The applicants propose to construct an open deck from a second floor bedroom on the east side of the dwelling located at 6004 Lowell Avenue. The existing dwelling is a complying structure in that the building complies with the side and rear yard setback requirements in the R-12 zone.

II. Background

The subject property is one lot of record with 80.00 feet of frontage on Lowell Avenue, a depth of 150.00 feet and a lot area of 12,000 square feet. The subject property is developed with a two-story single-family dwelling. The existing house is built 39.60 feet from the front property line facing Lowell Avenue, 14.90 feet from the east side property line, 22.80 feet from the west side property line and 85.00 feet from the south rear property line.

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. Although the subject building does meet the R-12-zone regulations, the proposed second floor open deck will not comply with the 10.00 foot minimum setback in the R-12 zone. 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.

III. Discussion

The proposed second-story open deck measures 2.50 feet by 11.00 feet by 8.00 feet in height above the ground. Because of the relatively flat grade along the side of the building facing the adjoining property, if the proposed deck is built the neighbor while standing in their backyard will view a taller structure that will enable the applicant to look down on the neighbor's backyard. (Refer to pictures submitted by the applicants).

The proposed open deck will be located 8.00 feet from the east side property line. The applicants indicate that the open deck will not be enclosed for a permanent year round structure.

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.

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

Since 1993, there have been no similar variances for decks within the immediate area heard by the Board of Zoning Appeals.

IV. 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 Taylor Run/Duke Street Small Area Plan for residential medium land use.

V. Requested variance

Section 3-306 (A) (2), Side Yard:

The R-12 zone requires a minimum side yard setback of 10.00 feet. The proposed open deck will be located 8.00 feet from the east side property line. The applicants request a variance of 2.00 feet from the south side property line.

VI. 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 has relatively flat topography along the east side of the property where the proposed deck is to be placed. The existing flat topography 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.

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 applicants state that they acquired the property with the knowledge of the open area along the east side of the building. The applicant's plans are to take a complying structure and making it noncomplying as to the required east 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?
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The requested variance, if granted, will create a second-story mass that is currently not on the ease building wall and enabling a projecting porch to be seen and potentially impacting the adjoining properties light, air, noise level and proximity if a second-story structure closer to their property that did not exist before. Immediately adjacent property to the east will be most affected. Staff does not believe that the approval of more decks will negatively affect the character of the neighborhood; however, if all single-family dwellings on Lowell Avenue were to construct similar decks, the character of the neighborhood would indeed change. The applicants 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?
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No alternative plans were found to be acceptable to the applicant.

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 apply.

Transportation and Environmental Services:

F-1 No objections or recommendations.

Code Enforcement:

C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

C-2 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction.

C-3 Guardrails around the deck must comply with IRC sec. R316.

Recreation (Arborist):

F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

F-1 This project involves minimal ground disturbance. 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.