

Docket Item #4
BZA CASE #2004-00043

Board of Zoning Appeals
December 9, 2004

ADDRESS: 2718 SYCAMORE STREET
ZONE: R-8, RESIDENTIAL
APPLICANT: DAVID AND ELIZABETH LUCCHESI, OWNERS

ISSUE: Variance for and existing fence 4.00 feet in the required front yard and 7.00 feet in the required side yard..

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-202(A)(1)	Open Fence	3.50 ft (Open Fence)	4.00 ft (Closed Fence)	0.50 ft (Closed)
7-202(B)(3)	Closed Fence	6.00 ft	7.00 ft	1.00 ft (Lattice)

Deferred at the November 11, 2004 hearing, due to lack of quorum.

STAFF CONCLUSION:

Staff recommends **denial** of the variance because the request does not meet the criteria for a variance.

I. Issue

The applicants request approval of a variance at 2718 Sycamore Street for after-the-fact installation of (1) a 4.00 feet to 6.00 feet closed fence located in the required front yard facing Mosby Street and (2) a 7.00 feet tall closed fence topped with lattice located on the north and south side property line. The new wood fence replaces a 4.00 feet chain link fence which enclosed most of the property.

II. Background

The subject property, two lots of record, is a through lot with 40.00 feet of frontage facing Sycamore Street and 40.00 feet of frontage facing Mosby Street and a depth of 200.00 feet along the north and south side property lines. The lot contains 8,000 square feet. The subject property is complying for an interior lot in the R-8 zone. The minimum lot size required for a lot is 8,000 square feet.

The property is developed with a two-story detached single-family dwelling with a rear covered open porch located 15.90 feet from Sycamore Street, 2.80 feet from the north side property line, approximately 9.00 feet from the south side property line and 124.80 feet from the front property line facing Mosby Street. According to Real Estate Assessment records, the house was constructed in 1920. A driveway located off Mosby Street serves off-street parking.

III. Discussion

Based upon a complaint the City investigated and found the applicants had installed a taller fence than is permitted under the adopted fence rules as it applies to open and closed fences allowed in required front and required side property lines. The applicants indicate that a 4.00 feet tall chain link fence enclosed all of the rear yard facing Mosby Street and nearly all of the north side property line to within 20.00 feet facing the front property line of Sycamore Street. The existing chain link fence was removed and replaced with (1) a 4.00 feet to 6.00 feet tall closed fence along the north and south side property lines and (2) an 7.00 feet tall closed fence topped with lattice installed on the north and south side property facing Mosby Street. (Refer to the attached plan and photographs).

As indicated on the applicants' submitted fence plan approximately 136.00 feet of closed fence extends along the north and south side property lines up to the front property line facing Mosby Street. The closed fence installed is apportioned in the following lengths and heights along the north and south property lines.

- to secure the rear yard of the property which is exposed from two public streets and to provide screening from the adjoining properties.
- to replace the existing 4.00 feet chain link fence that was in need of repair.

The applicant indicates that the proposed fence is in keeping with similar fences in the immediate neighborhood. An inspection of the immediate neighborhood revealed there are other 6.00 feet high solid wood fences built along side and rear yards within the immediate neighborhood; there are no 6.00 feet fences in required front yards. It appears that the fences were constructed prior to current corner lot fence regulations. The City has no permits on record indicating when the nearby fences were installed.

There have been no previous variances granted for this property. Since 1993, there have been no variances for fences in front yards in the immediate neighborhood.

IV. Master Plan/Zoning:

The subject property is zoned R-8, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951, and is identified in the Potomac West Small Area Plan for residential land use.

V. Requested Variance:

Section 7-202(A)(1), Open Fence:

The zoning ordinance restricts the height of fences if placed in a required front yard and specifically along a side property line which overlaps into a required front yard to 3.50 feet and to be an open style fence similar to a picket fence. The applicants request a variance to place a 6.00 feet and 7.00 feet closed style fence (topped with lattice) along the required north and south side property line which project into the required front yard facing Mosby Street.

Section 7-202(B)(3), Closed Fence:

The zoning ordinance restricts the height of fences if placed in a required side and rear yard. The applicants request a variance to place a 6.00 feet and 7.00 feet closed style fence (topped with lattice) along the required north and south side property line which project into the required front yard facing Mosby Street. The applicants request a variance to place a taller fence _____

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?
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Strict application of the zoning regulations will not result in unnecessary hardship on the applicants nor constitute a hardship approaching confiscation. The need for a 6.00 feet closed fence along the side property lines which overlap into the required front yard facing Mosby Street is not necessary to prevent the applicants reasonable use of their property. The applicants can use the remainder of the property if a 3.50 feet open style fence is installed without the need of a variance. Although the subject property is a through lot (a lot with two street frontages) the applicants can install a 3.50 feet fence in compliance with the rules and 30.00 feet back from the front property line facing Mosby Street install a 6.00 feet to secure a sufficiently large back yard for their family. Strict application of the zoning regulations does not result in undue 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?
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The subject property is not unique because it is a through lot. The applicants have the advantage of a very deep lot with a large backyard. Conformance with the fence regulations will not deprive the applicants use of their property. There are other properties in the immediate area which now conform to the fence regulations along the side property lines. The remainder of the subject lot can continue to be used if a 3.50 feet open style fence is installed without compromising the fence rules.

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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The owners can have full use of their property under the current fence rules. This portion of the property can be enclosed by a 3.50 feet tall fence without it being walled off to its neighbors. A 6.00 foot fence will, in effect, create a wall when viewed from the street and from the adjoining neighbors. The fence rules were crafted to transition from a 6.00 feet closed fence to a lower 3.50 feet open style fence as the fence is located closer to the front property line and to the street. The

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current fence conditions is what the current fence rules were created to prevent from occurring facing the street. The applicant can lower the portions of the fence in violation of the fence rules without the need of a variance. There is no hardship if the fence rules are applied to the subject property.

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 applicants proposal is to place a closed and taller fence along the entire side yard property lines facing Mosby Street and in the required front yard. As placed, the existing fence creates a wall with the neighboring properties. The existing fence is harmful to the value of the adjacent and nearby properties. This fence is out of character in the neighborhood.

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

None that would meet the desires of the applicants.

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

No other remedy exists except a variance or lower the height of the 4.00 feet closed fence by .50 feet and remove alternating panels and 1.00 feet of the 7.00 feet tall closed fence along the required north and south side property lines which also project into the required front yard facing Mosby Street. There is no hardship if the zoning regulations are applied.

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 A construction permit is required for any fencing exceeding 6 feet in height.

Recreation (Arborist):

F-1 No trees are affected by the proposed variance.

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.