

Docket Item #5  
BZA CASE #2004-00044

Board of Zoning Appeals  
December 9, 2004

**ADDRESS:** 600 UPLAND PLACE  
**ZONE:** R-5, RESIDENTIAL  
**APPLICANT:** JILL AND SEAN MILLKEN, OWNERS, BY GAVER NICHOLS,  
ARCHITECT

**ISSUE:** Variance to construct a two story addition and covered porch in the required front yard facing Hill Top Terrace.

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CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-406(A)(1)	Front Yard	25.00 feet	8.00 feet	17.00 feet

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

(insert sketch here)

**STAFF CONCLUSION:**

Staff recommends **denial** of the variance because the request does not meet the criteria for a variance. However, should the Board approve the variance request, the applicant shall note that Archaeology comments shall be printed onto all field copies of construction drawings.

**I. Issue**

The applicant proposes to construct a two story addition and a covered porch in the required secondary front yard of 600 Upland Place. The proposed porch and two story addition will be located on the south side of the existing two story dwelling and along the Hill Top Terrace frontage. An existing brick garage at the south east corner of the lot would be removed and would be replaced by the proposed two story addition. The two story addition would extend from the south wall of the existing dwelling to the current location of the existing south wall of the garage. The covered porch would be constructed just forward of the two story addition along the Hill Top Terrace facade.

**II. Background**

The dwelling at 600 Upland Place is located on three lots of record at the corner of Hill Top Terrace and Upland Place. The lot area totals 10,750 square feet. The existing two story dwelling is located 24.90 feet from the north front property line adjacent to Upland Place, 15.10 feet from the east secondary front property line adjacent to Hill Top Terrace and 42.80 feet from the west side property line. An existing detached brick garage is located 15.00 feet from the Hill Top Terrace frontage and 7.40 feet from the south side property line.

**III. Discussion**

The proposed two story addition would extend from the south wall of the existing dwelling approximately 49.00 feet to the existing setback 7.40 foot setback from the south side property line. The proposed addition would create a physical link between the existing dwelling and the two story structure which would replace the existing brick garage.

The addition would measure a total of 21.00 feet from grade to the eave of the shed dormer on the south side facade and 22.50 feet from grade to the roof eave on the east front facade adjacent to Hill Top Terrace. The properties in the R-5 residential zone must maintain a setback-to-height ratio of 1:3. The proposed setback remains at 7.40 feet with an allowance of up to 22.20 feet on the south wall height. The addition will comply with zoning ordinance requirements for the side yard setback.

The proposed addition would be located 15.00 feet from the east front facade facing Hill Top Terrace and encroaches 10.00 feet into the required 25.00 foot east front setback. The applicant also proposes a covered porch on the east facade. The porch would measure 8.00 feet deep by 21.00 feet long. The porch would be located only 8.00 feet from the east front property line adjacent to Hill Top Terrace. Uncovered stairs leading up to the porch would be located only 5.00 feet from the east front property line. Although the stair is closest

projection to the east property line, uncovered stairs are allowed to encroach into a required yard. Therefore, the variance request applies to the covered porch.

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

There has been one similar variance for a covered porch in the immediate area heard by the Board of Zoning Appeals:

<u>Case #</u>	<u>Date</u>	<u>Address</u>	<u>Variance Requested</u>	<u>Action</u>
2002-00002	2/14/02	605 Upland Pl.	Front Setback of 8.00 ft	Granted

**IV. Master Plan/Zoning**

The subject property is zoned R-5, residential, 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 land use.

**V. Requested variances**

Section 3-406(A)(1), Front Yard

The R-5 zoning regulations state that each use must provide a minimum 25.00 foot setback from the front property line. The proposed covered porch addition would be located 8.00 feet from the east front property line adjacent to Hill Top Terrace. The porch addition would be located within the required front yard setback. Therefore, a variance of 17.00 feet is required in order to construct the proposed addition.

**VI. Noncomplying structure**

The existing building at 600 Upland Place is a noncomplying structure with respect to the following:

	<u>Existing</u>	<u>Required</u>	<u>Noncompliance</u>
Front Yard	15.10 feet	25.00 feet	9.90 feet

**VII. 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 ordinance does not result in undue hardship nor does it prevent unreasonable use of the property. The subject property is located on a lot which exceeds the minimum corner lot size for the R-5 zone by 4,250 square feet. The location of the existing dwelling within the required front yard adjacent to Hill

Top Terrace and in close proximity to the front property line results in a large area of open space in the interior of the lot. Staff finds that there is ample opportunity to construct an addition in the interior of the lot and meet the required setbacks. The applicant contends that construction is limited by the presence of specimen trees on the property. The City Arborist has completed an analysis of the site and has not designated any of the trees as specimen. However, Staff does recognize that there are significant mature trees on the site which limit construction on some portions of the site but does not unreasonably prevent expansion. Staff also notes that the proposed location of this addition will impact two large mature red oak trees on the property. Staff finds that the loss of these two trees in such a prominent location will have an adverse impact on the neighborhood. Further, this proposal places a significant amount of mass in the required front yard which will appear significantly closer to the front property line than the adjacent dwelling at 400 Hill Top Terrace, the only other dwelling on the east blockface. Staff would urge the applicant to consider a design that respects the front yard setback and retains mature trees. Given that such an opportunity exists to construct outside of required yards and in such a manner as to not impact mature site trees, staff finds that no hardship exists in this case and cannot support the addition as proposed.

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 in this case. There are a total of four lots, including the subject property, between Upland Place and Carlisle Drive. Each of these lots is a corner lot with frontage on two public streets. 400 Hill Top Terrace, immediately adjacent to the subject property is located on a lot identical in size to the subject property however, maintains a greater east front yard setback than the subject property. The remaining two lots across Hill Top Terrace from the subject property are also similarly configured but are somewhat smaller lots. Additionally, each lot contains a number of mature trees on site. Therefore, Staff finds that the subject property is not unique in character.

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 lot configuration has existed since the construction of the dwelling in 1937.

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 proposed addition will place an unreasonable amount of mass in close proximity of the east front property line creating a greater setback than that of the adjacent dwelling. It will also likely remove two large red oak trees which will adversely impact the neighborhood which is characterized by large mature trees.

5. Have alternate plans been considered so that a variance would not be needed?
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The applicants indicate that alternate plans would not meet their desires.

6. Is any other official remedy available to relieve the hardship?
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There is no hardship.

**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:

- F-1 The proposed plan shows the new garage located along the property line of a vacated portion of Summit Lane. The applicant shall identify the legal owner of this parcel. Should the parcel be owned by a party other than the applicant, lot line requirements as listed in C-1 below shall apply.
- C-1 All exterior walls within 5 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 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 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 One 39.00 inch diameter and one 30.00 inch diameter red oak will be affected by the proposed addition.

Historic Alexandria (Archaeology):

- F-1 This property is near Fort Ellsworth, one of a ring of over 160 forts and batteries built by the Union Army to protect Washington, D.C., during the Civil War. Fort Dahlgren, another Civil War fortification, was also located nearby, and there were numerous encampments of soldiers in the vicinity. The property therefore has the potential to yield archaeological resources that could provide insight into military life in Alexandria during the war.
- 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 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 and monitoring to record significant finds.
- R-3 The applicant should not allow any metal detection to be conducted on the property, unless authorized by Alexandria Archaeology.
- R-4 The above statements (in R-1, R-2, and R-3) 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.