Docket Item #8
BZA CASE #2004-00047

Board of Zoning Appeals
December 9, 2004

ADDRESS: 312 PARK ROAD
ZONE: R-5, RESIDENTIAL
APPLICANT: RICHARD AND AMY SWINDELL, OWNERS

ISSUE: Variance to raise the roof on an existing noncomplying garage located in the required side and rear yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-406(A)(2)	Side Yard (West)	7.00 ft	0.00 ft	7.00 ft
3-406(A)(3)	Rear Yard (South)	13.50 ft*	10.00 ft	3.50 ft

* Based on the building height to the midpoint of the new gable roof facing the south rear property line.

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

(insert sketch here)

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

I. Issue

The applicants propose a minor change in the slope of the roof on an existing noncomplying garage located in the required side yard for the property at 312 Park Road. The applicants state that raising the roof of the existing garage will provided needed storage space within the garage. The existing building footprint will remain the same, but the roof height of the garage will increase by 3 feet - 4 inches. The overall height of the garage from grade to the peak of the new roof will increase from approximately 15.00 feet to 18.33 feet. As shown on the submitted drawings the new altered garage roof will be slightly more angled than the existing gable roof. The garage will continue to be used for vehicle parking and storage. A pull down stair will provide access to the storage area. A new rear window facing the alley provides light and is provide some architectural aesthetics to the garage.

The zoning ordinance states a noncomplying structure may be expanded or enlarged as long as the expansion or enlargement complies with the applicable zoning requirements. In this instance, the slightly taller garage roof requires the applicants to seek relief from the Board of Zoning Appeals because the existing garage currently projects into the required west side yard. The applicants request relief from the required 7.00 feet side yard setback from the west property line.

II. Background

The subject property is three lots of record with 71.00. feet of frontage facing Park Road and a depth of 100.00 feet. The property contains a total of 7,100 square feet.

The property is developed with a two-story brick single family dwelling with a detached block garage located at the northwest corner of the property. The existing house is located 23.10 feet from the front property line facing Park Road, 12.90 feet from the west side property line and 11.10 feet from the east side property line. An alley abuts the property along the rear south property line. Access to the existing garage is from the rear alley.

III. Discussion

The existing one and one-half-story block detached garage faces a rear alley and is placed approximately 3.00 feet from the rear south property line and is on the west side property line. The existing garage measures 20.30 feet by 20.30 feet by 15.00 feet to the top of the gable roof. A 14.00 feet wide alley parallels the subject property along the south rear property line. Real estate assessment records indicate the house and garage were built in 1939. The applicants purchased the property in 1997.

Section 12-102(C) of the zoning ordinance permits the applicants to repair, renovate or completely rebuild the existing garage at its present size, height and location. However, section 12-102(A) of the zoning ordinance prohibits the expansion of a noncomplying structure unless it complies with zoning. The existing garage does not meet the R-5 zone side yard setback regulations, and the proposed taller garage structure also will not comply with R-5 zone regulations as to the required setback from the west side property line.

Because the existing garage faces a 14.00 feet wide alley along the rear property line, half of the alley width (7.00 feet) can be created towards the required rear yard setback. The garage is currently located 3.00 feet from the rear property For the purpose of determining the required rear yard setback, height from grade to the midpoint of the gable roof is used. In this instance, the garage height to the midpoint of the gable roof is 13.50 feet. The required rear yard is 13.50 feet. Adding half the alley width and the current garage setback of 3.00 feet a total of 10.00 feet can be applied to the taller garage building. The applicants, therefore, must seek a variance of 3.50 feet from the rear yard setback requirement. The adjoining most effected property owner does not object to the taller garage.

A comparison of the existing garage with the renovated taller garage is as follows:

	Existing Garage	Proposed Garage	Change
Height	15.00 ft	18.33 ft	+3.33 ft
Width	20.30 ft	20.30 ft	no change
Length	20.30 ft	20.30 ft	no change
Floor Area	412 sq ft	412 sq ft	no change

There have been no variances previously granted for the subject property. Since 1993, there have been no similar variance requests for garages in the immediate area heard by the Board of Zoning Appeals.

IV. Master Plan/Zoning

The subject property is zoned R-5, residential and has been so zoned since 1951, and is identified in the North Ridge Small Area Plan for residential low land use.

V. Requested Variance

Section 4-406(A)(2), Side Yard (West):

In the R-5 zone each single-family dwelling requires two side yards of a minimum of 7.00 feet. The existing renovated garage will continue to be located on the west side yard and 3.00 feet from the south rear yard property lines. Because the existing garage will increase in height the new structure will not comply with the west side property line, therefore a 7.00 side yard setback is required. The applicants requests a variance of 7.00 feet from the west side property line.

Section 4-406(A)(3), Rear Yard (South):

In the R-5 zone each single-family dwelling to provide a rear yards of a minimum of 7.00 feet or the height of the building whichever is greater. The existing renovated garage will continue to be located 3.00 feet from the south rear yard property lines. Because the existing garage will increase in height the new structure will not comply with the rear yard setback based on the new roof height; a rear yard setback of 13.50 feet is required. Applying half the distance of the rear alley (7.00 feet) and the 3.00 feet of setback of the existing garage to the south rear property line a total of 10.00 feet can be applied to the required rear setback. The applicants requests a variance of 3.50 feet from the south rear property line.

VI. Noncomplying Structure

The existing garage at 312 Park Road is a noncomplying structure with respect to the following:

	Required	Provided	Noncompliance
West Side Property Line	7.00 ft	0.00 ft	7.00 ft

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?

   The property is a slightly larger property than is required for a single family residential lot. The property does not have difficult topography which would prohibit or unreasonably restrict its use. No condition of the property creates a hardship that would permit a larger garage than now exists. Staff finds no hardship in this case.

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. The condition upon which the petition for a variance is based, as stated by the applicants, is the need to slightly raise the garage roof to accommodate needed storage space. The proposed garage could be renovated without the need to increase in building height and still accommodate the needs of the applicants though not as must storage area. The change in roof height is unnecessary.

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?

There is no hardship. The applicants were aware of the existing garage and its proximity to the side and rear property lines. The existing garage can be used and is functional at its current size and height.

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 increase in building height and use of the proposed garage will have a visual impact on immediately adjoining property. The introduction of a taller detached accessory structure on this property is unnecessary.

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?

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 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.

Recreation (Arborist):

F-1 The proposed variance does not affect any trees.

Historic Alexandria (Archaeology):

F-1 This project does not involve 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.