

Docket Item #5
BZA CASE #2005-0022

Board of Zoning Appeals
May 12, 2005

ADDRESS: 1303 BISHOP LANE
ZONE: R-20, RESIDENTIAL
APPLICANT: DAVID CURTIN, OWNER, BY MARY CATHERINE GIBBS,
ATTORNEY

ISSUE: Variance to construct a wood privacy fence 8.00 feet tall on the rear property line.

| CODE SECTION | SUBJECT | CODE REQMT | APPLICANT PROPOSES | REQUESTED VARIANCE |
|--------------|--|------------|--------------------|--------------------|
| 7-202(B)(3) | Closed Fence (North Rear Property Line) | 6.00 ft | 8.00 ft | 2.00 ft |

(insert sketch here)

STAFF CONCLUSION: Staff **recommends approval** of the variance request because the applicants have demonstrated a hardship.

If the Board decides to grant a variance, it should contain the conditions under the department comments. The variance must also be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.

I. Issue

The applicants, located at 1303 Bishop Lane, propose to replace an existing noncomplying 7.00 feet tall closed fence along the subject property's rear property line with a new 8.00 feet tall wood privacy fence.

II. Background

The subject property, an interior lot, has 70.00 feet of frontage on Bishop Lane, a depth of 231.23 feet along its longest side property line and contains 47,664 square feet.



An existing one-story single-family dwelling is located 70.50 feet from the front property line facing Bishop Lane, 22.10 feet from the west side property line and 36.00 feet from east side property line. A detached garage is located 17.00 feet from the north rear property line and 27.00 feet from the west side property line. Real Estate Assessment records indicate the house was built in 1953 in compliance with the R-12 zoning regulations.

A existing 7.00 feet high wood fence is currently installed along the applicants' rear property line. The existing fence was installed when the applicants purchased the property in 1995.

III. Discussion

The applicants indicate that the replacement 8.00 feet high wood privacy fence is needed to screen the new TC Williams High School and new access road to the school will placed within one foot of portions of the rear property line of the subject property.



IV. Master Plan/Zoning

The subject property is zoned R20, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951, and is identified in the Taylor Run/ Duke Street Small Area Plan for residential land use.

III. Requested variance

Section 7-202(B)(3), Fences in Side and Rear Yards:

Fences in required side and rear yards can either be open or closed style fences and cannot exceed 6.00 feet in height. The proposed fence is 2.00 feet taller than allowed. The applicants are requesting a variance of 2.00 feet from the fence height requirement as it applies along the rear property line.

IV. Staff analysis under criteria of section 11-1103

To grant a variance, the Board of Zoning Appeals must determine that a unique characteristic exists for the property. Section 11-103 of the zoning ordinance lists standards that an applicant must address and that the Board believes exists and thus warrants varying the zoning regulations.

- (1) The particular physical surroundings, shape, topographical condition or extraordinary situation or condition of the property that prohibits or unreasonably restricts the use of the property.
- (2) The property's condition is not applicable to other property within the same zoning classification.
- (3) Hardship produced by the zoning ordinance was not created by the property owner.
- (4) The granting of a variance will not be detrimental to the public or other property or the neighborhood in which the subject property is located. Nor will the granting of a variance diminish or impair the value of adjoining properties or the neighborhood.
- (5) The granting of the variance will not impair light and air to the adjacent property.
- (6) The granting of a variance will not alter the character of the area nor be detrimental to the adjacent property.
- (7) Strict application of the zoning ordinance will produce a hardship.
- (8) Such hardship is generally not shared by other properties in the same zone and vicinity.
- (9) No other remedy or relief exists to allow for the proposed improvement.

(10) The property owner has explored all options to build without the need of a variance.

V. Applicant's Justification for Hardship

The applicant indicates that the new construction now underway at TC Williams is closer to their property than any other residential property in the immediate neighborhood. The applicants' state that the construction has resulted in the loss of most, if not all, of the current transition area between the school and a residential property. In fact, a new access road is to be located within one foot of the rear property line. The applicants state the existing 7.00 feet is insufficient to screen the property in order to continue reasonable use of the backyard.

VI. Staff Analysis

The hardship in this case arises from the fact that the subject property, which is residential, is in close proximity to a major institutional use. In fact, the redesign for the new high school has resulted in the need to provide an adequate access road to the new building. The applicants' home is unique in that it is the only residential property that is now closer to the new school than it was originally. In this case a new service road will be installed that comes within one foot of the applicants' property which affects the reasonable use of the property. The placement of the new service road will result in the loss of an adequate transition area between the subject property and the school. At a minimum at least 25.00 feet is typically required for institutional uses and accompanying buildings near residentially zoned property.

Staff believes that strict application of the fence regulations as applied to this property within the required rear yard creates an unreasonable restriction on the property. The fence rules were intended to prevent tall imposing fences facing other residential property. A tall fence structure will not change the appearance of the school property either from the public street or from the school property facing the applicants' backyard.

There is showing of hardship along the rear property line. Staff recommends **approval** of the variance.

STAFF: Hal Phipps, Chief, Department of Planning & Zoning
 Peter Leiberg, Zoning Manager

DEPARTMENTAL COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

* The applicant is advised that if the variance is approved the following additional comments apply.

Transportation and Environmental Services:

F-1 No comments.

Code Enforcement:

C-1 A construction permit is required for the proposed project.

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.