

Docket Item #1  
BZA CASE #2005-00033

Board of Zoning Appeals  
October 13, 2005

**ADDRESS:** 412 QUEEN STREET  
**ZONE:** RM, RESIDENTIAL  
**APPLICANT:** BRIAN HIGGINS, OWNER, BY RICHARD CLAUSEN, ARCHITECT

**ISSUE:** Variance to remove an existing brick storage shed and replace with a one car garage in the required rear yard.

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CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-1106(A)(3)(a)	Rear Yard	16.00 ft	.50 ft	13.00 ft*

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\* Half the width of the abutting 5.00 feet wide rear alley is applied to the required rear setback.

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The staff **recommends denial** of the requested variance because the applicants have not demonstrated a hardship. Should the Board approve the variance, the approval is conditional on the review and approval of the Old and Historic Alexandria Board of Architectural Review.

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

**BOARD OF ZONING APPEALS ACTION OF JULY 14, 2005:** On a motion to defer by Mr. Allen, seconded by Mr. Koenig, the variance was deferred by a vote of 5 to 0.

Reason: To allow the case to be heard by a full board.

Speakers:

Rick Clausen, architect, made the presentation.

Phillip Maytas, neighbor at 219 North Pitt Street, spoke in opposition.

Jane Clayton, neighbor at 219 North Pitt Street, spoke in opposition.

Rebeccah Kilduff, neighbor at 414 Queen Street, spoke in opposition.

**BZA CASE #2005-0033**

**I. Issue**

The applicant proposes to remove an existing detached brick shed that is built along the full width of the rear of the property line at 412 Queen Street and in the same location build a brick one-car garage. As shown on the submitted drawings, the new garage will be located approximately .50 feet from the rear property line and screened by existing brick walls along the rear and west side property line. close to the rear property line.

**II. Background**

The subject property is one lot of record with 18.37 feet of frontage facing Queen Street and a depth of 109.25 feet. The property contains a total of 2,365 square feet.

The property is developed with a two-story single family dwelling located on the front property line facing Queen Street, on the east side property line and on the west side property line. The property widens along the rear property line to 24.99 feet. A 10.00 feet wide alley abuts the property along the west side property line and a 5.00 feet wide alley along the south rear property line. A one-story brick storage shed is located .50 feet from the south rear property line and on the east and west side property lines. Real estate assessment records indicate the house was built in 1820.



*Existing one-story brick storage shed*

Section 12-102(C) of the zoning ordinance permits the applicant to repair, renovate or completely rebuild the existing shed 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 proposed garage will not comply with RM zone regulations as to the required setback from the south rear property line. Therefore, the applicant must seek a variance from the rear yard setback requirements.

**III. Description**

A comparison of the existing shed and new one-car garage is as follows:

	<u>Existing Shed</u>	<u>Proposed One-Car Garage</u>	<u>Change</u>
Height	7.00 ft	12.00 ft	+5.00 ft
Width	5.10 ft	12.50 ft	+7.40 ft
Length	22.00 ft	24.50 ft	+2.50 ft
Floor Area	112 sq ft (one-story)	306 sq ft (one-story)	+194sq ft

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

This property is located in the Old and Historic Alexandria District. New construction visible from the public right-of-way requires review and approval of the Old and Historic Alexandria District Board of Architectural Review.

**IV. Master Plan/Zoning**

The subject property is zoned RM, residential and has been so zoned since 1951, and is identified in the Old Town Small Area Plan for residential low land use.

**V. Requested variance**

Section 4-1106(A)(3)(a), Rear Yard (South):

The RM zone requires a rear yard setback of 16.00 feet or the height of the structure whichever is greater. The proposed one car garage will continue to be located .50 feet from the rear property line. Height of the new one-car garage to the eave line of the garage roof is 7.50 feet. The required rear year continues to be 16.00 feet or one-half the building whichever is greater. The zoning ordinance permits half of the 5.00 feet wide abutting alley to the subject property to be applied to the required rear yard setback of 16.00 feet. The applicant requests a variance of 13.00 feet.

**VI. Noncomplying Structure**

The existing shed at 412 Queen Street is a noncomplying structure with respect to the following:

	<u>Required</u>	<u>Provided</u>	<u>Noncompliance</u>
Rear Property Line	16.00 ft	.50 ft	13.00 ft

**VII. 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.

**VIII. Applicant's Justification for Hardship**

The applicant states that if the rear yard setback of 16.00 feet is applied to the new garage it will result in dividing the lot into two separate open space parcels that will severely hamper the use and enjoyment of the lot.

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**IX. Staff Analysis**

The property is a slightly irregular in shape in that it is wider along the rear property line than along the front property line. The lot is not substandard nor does it have difficult topography which would prohibit or unreasonably restrict its use. No condition of the property creates a hardship that would hamper the use of the lot and enjoyment by the applicant. The applicant could build an off-street parking space, maintain the existing shed without affecting the required open space or the need of a variance. Preserving the historic character of the shed structure is more appropriate for the lot. The applicant was aware of the existing shed and its proximity to the south rear property line when the property was purchased.

The applicants have not demonstrated a legal hardship. The staff recommends denial of the variance.

STAFF:           Hal Phipps, Division Chief, Planning and Zoning  
                    Peter Leiberg, Zoning Manager, Planning and Zoning

**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 objections to the proposed garage.
- R-1 City Code Section 8-1-22 requires that roof, surface and sub-surface drains be connected to the public storm sewer system. Where storm sewer is not available applicant must provide a design to mitigate impact of stormwater drainage onto adjacent properties and to the satisfaction of the Director of Transportation & Environmental Services. (T&ES)

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 of the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to skylights within setback distance. Openings in exterior walls between 3 and 5 feet shall not exceed 25% of the area of the entire wall surface (This shall include bay windows). Openings shall not be permitted in exterior walls within 3 feet of an interior lot line.
- 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 No trees are affected by this plan.

Historic Alexandria (Archaeology):

- F-1 This property has potential to yield archaeological resources that could provide insight into 18<sup>th</sup> and 19<sup>th</sup>-century Alexandria. Prior to development of the town, the headwaters of a small stream ran through this area, and the property may yield evidence of 18<sup>th</sup>-century landfill activities. There is also the possibility for the discovery of evidence of an old cemetery in the area. In 1904, an *Alexandria Gazette* article reported an oral history account of a tombstone in the garden of a house on Queen Street near Royal and the discovery of skeletons during construction of houses on Royal near Queen Street in the 1840s. Tax records indicate that there were a few residences in the 400 block of Queen Street by 1830. In 1850, there was a free African American household on the block, but the exact address is unknown.
- R-1 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 to record significant finds. In the unlikely event that human burials are found and need to be moved, they must be left in place until appropriate legal documents have been filed and approved.



- R-2 Call Alexandria Archaeology immediately (703-838-4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.), possible graves (human remains, coffin wood, coffin hardware), 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-3 The above statements in R-1 and R-2 must appear in the General Notes of all site plans 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.