

Docket Item # 6  
BZA CASE #2005-0056

Board of Zoning Appeals  
November 10, 2005

**ADDRESS:** 321 KENTUCKY AVENUE  
**ZONE:** R-8, RESIDENTIAL  
**APPLICANT:** PAUL STEWART, OWNER

**ISSUE:** Special exception to construct a second story addition in the required east side yard.

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CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED EXCEPTION
3-306((A)(2)	Side Yard	13.00 ft *	10.00 ft	3.00 ft

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\* Based on a building height of 26.00 feet from average finished grade to the midpoint of the roof.

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The staff **recommends approval** of the requested special exception because the request meets the criteria for a special exception.

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

**BOARD OF ZONING APPEALS ACTION OF NOVEMBER 10, 2005:** On a motion to approve by Mr. Allen, seconded by Mr. Curry, the special exception was approved by a vote of 7 to 0.

Reason: The application met the requirements for a special exception as outlined in the staff report.

Speakers:

Dexter Gaines, architect, made the presentation.

(insert sketch here)

**I. Issue**

The applicants propose to improve their house at 321 Kentucky Avenue by constructing a second story above an existing side yard addition.

**II. Background**

The subject property is one lot of record with approximately 50.00 feet of frontage facing Kentucky Avenue and a depth of 145.49 feet along its deepest side property line. The lot contains 8,623 square feet of property area.



*Existing house at 321 Kentucky Avenue*

The property is developed with a two-story brick dwelling with basement located 27.10 feet from the front property line facing Kentucky Avenue, 7.90 feet from the east side property line and 7.90 feet from the west side property line. As indicated on the submitted plat, the existing house is built within the required east and west side yards and required front yard. The side property lines angle away from the house as the side property lines extend toward the rear property line. The property is characterized by hilly topography at the back of the lot. According to real estate assessment records, the house was built in 1940.

The existing house is classified as a legal noncomplying structure because it does not meet the side yard setback facing the east side property line and front yard setback facing Kentucky Avenue.

**III. Description**

The applicants propose to construct a second story in line with the walls of the side yard addition facing the east side property line. The new addition measures 10.00 feet by 22.30 feet and will total approximately 223 square feet. The two-story addition will be a gable style roof and will measure 26.00 feet from average finished grade to the midpoint of the gable roof on the east building facade; 16.00 feet in height to the eave line of the roof facing the east property line. A new open trellis will be built on the south wall of the new addition facing Kentucky Avenue. The zoning regulations allow a trellis to be built in a required yard.

The new side yard addition will continue to accommodate a study and bathroom on the first floor; a master bathroom on the second floor. The proposed addition will be in line with the existing building walls. The new addition will continue to be located 7.90 feet from the

closest point to the east side property line and 10.00 feet from the east property line where the gable roof centers on the east side property line. Because the applicants are altering one noncomplying wall located within the required east side yard the project is eligible for a special exception.

On December 4, 2004, the Board of Zoning Appeals granted a front yard setback variance to build a open covered porch for the subject property (BZA Case#2004-0048). There have been no prior special exceptions applied for or approved for the subject property.

**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 identified in the North Ridge Small Area Plan for residential land use.

**V. Requested Special Exception:**

Section 3-306(A)(2) Side Yard (East)

The applicants request a special exception from the required minimum 8.00 foot side yard requirement. The existing east building wall is located 7.90 feet from the east side property line. The height of the proposed new two-story addition measures 26.00 feet from grade to the mid point of the gable roof facing the east side property line. An 13.00 feet side yard is required. The applicants request a special exception of 3.00 feet from the proposed gable roof.

**VI. Noncomplying Structure**

The existing building at 321 Kentucky Avenue is a noncomplying structure with respect to the following:

<u>Yard</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Front Yard	30.00 feet		
Side (East)	8.00 feet	7.90 feet	.10 feet
Side (West)	8.00 feet	7.90 feet	.10 feet

**VII. Staff analysis under criteria of section 11-1302**

This case asks the Board of Zoning Appeals to rule on whether a proposed second story addition located within the required east side yard meets the standards adopted for a special exception for additions.

Special Exception Standards

To grant a special exception, the Board of Zoning Appeals must find that the strict application of the zoning ordinance creates an unreasonable burden on the use and enjoyment of the property. Section 11-1304 of the zoning ordinance lists standards that an applicant must address and that the Board believes exists and thus warrants granting a special exception of the zoning regulations.

1. Whether approval of the special exception will be detrimental to the public welfare, to the neighborhood or to the adjacent properties.
2. Whether approval of the special exception will impair an adequate supply of light and air to the adjacent property, or cause or substantially increase traffic congestion or increase the danger of fire or the spread of fire, or endanger the public safety.
3. Whether approval of the special exception will alter the essential character of the area or the zone.
4. Whether the proposal will be compatible with the development in the surrounding neighborhood.
5. Whether the proposed development represents the only reasonable means and location on the lot to accommodate the proposed structure given the natural constraints of the lot or the existing development of the lot.

**VIII. Addition's Impact on Light and Air**

The subject lot is characterized by hilly topography, large trees and combined with angled side property lines. The grade at the rear of the house drops dramatically. An inspection of the immediate neighborhood revealed there are homes along this section of Kentucky Avenue that have similar lot conditions and the existing homes are built closer to a side property lines than the zoning rules permit. The proposed second floor addition above the footprint of an existing side addition will come no closer the east property line than the current house is now located. Construction of the new addition will have an impact on the immediate neighbor along the east side property and the addition could reduce light and air enjoyed by the neighboring property. However, in this case the adjoining building is approximately 20.00 feet from the applicants' building. The new addition will face the neighbors expansive rear yard. The R-8 zone requires a minimum of 8.00 feet to a common side property line. The location of the neighbor's house to the applicants' building affords a reasonable distance to reduce the impact of the proposed taller addition on their light and air. Staff believes, given the lot characteristics, topography and building location between the two neighboring homes, the proposed addition does not appear to negatively impact the neighboring home.

**IX. Lot Characteristics**

The subject property is not substandard as to lot area requirement for an R-8 zone single-family lot, but a combination of topography at the rear and angled side property lines and tall trees limits the area in which to expand. Building in line with the side yard addition provides a benefit in that it will continue to maintain a similar architectural style and maintain an open side yard. Staff, believes, the lot's characteristics afford a reasonable justification to support the request.

**X. Location of Improvements and Architecture**

The proposed new two-story addition could be constructed in compliance with the side yard requirement; however, it would result in either creating an awkward appearing roof line and recessing the addition resulting in a dissimilar architecture that the applicants are trying to avoid. From the street the new east side addition will appear similar to its counterpart on the west side of the main house. On balance, the staff feels that architectural integrity is preserved by building in line with the existing house.

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**XI. Staff Conclusion**

The proposed two-story side yard addition is in character with the existing house and other houses on the block. Staff believes that the applicants' property meets the test for a special exception, because of the lot's hilly topography, trees and angled property lines. The proximity of the building improvements to the shared east side property line will afford the adjoining property continued light and air. The proposed design when viewed from the front property line does not unduly exacerbate existing conditions on the lot.

Staff **recommends approval** of the request for special exception.

STAFF: Hal Phipps, Division Chief, Planning and Zoning  
Peter Leiberger, 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 comments.

Code Enforcement:

- F-1 The height of the structure exceeds the height and area limits of the International Residential Code, the USBC shall be applicable and the design shall meet the requirements pertaining to fire protection and emergency escape.
- 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 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 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-7 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.

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.