

Docket Item #3
BZA CASE #2006-0009

Board of Zoning Appeals
April 13, 2006

ADDRESS: 103 EVANS LANE
ZONE: RB, RESIDENTIAL
APPLICANT: TIMOTHY GARVIN, OWNER

ISSUE: Request a variance to build a new single family dwelling instead of a semi-detached dwelling on a lot with (1) less lot width and (2) reduce the required side yard facing the south property line from 7.00 feet to 0.00 feet (party wall construction) for the new dwelling.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-705(C)(1)	Lot Width (Single-Family Dwelling)	50.00 ft	25.00 ft	25.00 ft
3-706(A)(2)(a)	Side Yard (West)	8.00 ft*	0.00 ft	8.00 ft

* Based on a building height of 24.00 feet to the midpoint of the gable roof.

Staff **recommends approval** of the request because the applicant has 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 applicant propose to build a two-story single-family dwelling on a lot approved for a semi-detached dwelling at 103 Evans Lane. The proposed house will be located on the west side property line.

II. Background

The subject property is a vacant buildable interior lot with 25.00 feet of frontage facing Evans Lane, a depth of 87.00 feet and a lot area totaling 2,175 square feet. Another buildable lot abuts the subject property directly along the west property line. In 1992, the Planning Commission approved the subdivision into two semi-detached lots that conformed to the lot area and lot width requirements of the RB zone. At that time the applicant and his family members proposed to build two sem-detached dwellings on the two legal lots. Because of unusual family circumstances the family member of the adjoining lot at 105 Evans Lane has chosen not to build on his portion of the lot.

The applicant has waited 16 years to build his home at 103 Evans Lane. Since that opportunity may not occur to build a semi-detached dwelling, the applicant has elected to pursue a variance to reduce the lot width and side yard setback to build a single-family home. From the street the new house will appear as a single-family dwelling with a shared party wall along the west side property line with the anticipation that the applicant's family member may choose to construct the other semi-detached dwelling at 105 Evans Lane. In order for that to successfully occur, the applicant requests two variances to build on 103 Evans Lane.

III. Discussion

The proposed two-story detached dwelling at 103 Evans Lane is located 19.00 feet from the front property line facing Evans Lane (based on the prevailing front setback of existing homes facing Evans Lane), 8.33 feet from the east side property line, on the west side property line (with a future party wall construction) and 23.00 feet from the rear property line. As seen from Evans Lane, the house is approximately 27.00 feet in height to the top of the roof which is parallel to Evans Lane; 24.00 feet to the mid-point of the gable roof as seen from the east side property line.

As indicated on the submitted plat, the house will be located on the west side property. A variance of 8.00 feet from the west side property line is requested. The applicant proposes to build a party wall along the west side property line in anticipation of the adjoining family member's house at 105 Evans Lane to share the party wall construction. Because the lot was legally created for a semi-detached dwelling, the applicant requests a variance from the lot width requirement of 50.00 feet to 25.00 feet. Once the adjoining house is built at 105 Evans Lane, the two lots will continue to comply with all of the RB zone requirements for semi-detached dwellings.

The proposed house will comply with the floor area, east side yard setback, open space, and off-street parking requirements for a new detached single-family dwelling in the RB zone. A new residential dwelling is required to provide two off-street parking spaces. Access to

off-street parking for the new house will be provided from Evans Lane for one parking space and the second parking space from a nearby alley and dedicated easement across 105 Evans Lane to 103 Evans Lane.

IV. Master Plan/Zoning

The subject property was zoned RB, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Potomac West Small Area Plan for residential land use.

V. Requested variances

Section 3-706(C)(1), Lot Width:

The RB zone requires a single-family dwelling lot to be at least 50.00 feet wide. The applicant's legal lot was created for a semi-detached dwelling and is 25.00 feet wide. The applicant requests a variance of 25.00 feet.

Section 3-706(A)(2)(a), Side Yard (West)

The RB zone requires a single-family residential dwelling to provide a two side yards of at least 8.00 feet or three feet of building height for each foot of setback. The proposed dwelling is located on the west side property line. Based on a building height of 24.00 feet to the mid-point of the gable roof facing the west side property line a side yard setback of 8.00 feet is required. The applicant requests a variance of 8.00 feet.

VI. 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.

VII. Applicant's Justification for Hardship

The applicant states the an approved subdivision created two conforming lots for the purpose of constructing two semi-detached dwellings. Construction on these lots were to have occurred in a reasonable period. The applicant cannot proceed without the necessary variances to build a house on a complying lot. The immediate neighborhood is in a similar zone and lot configuration for semi-detached dwellings. Hardship is created by the reluctance of the owner at 105 Evans Lane to build in a reasonable period. Zoning requirements are more restrictive for a single-family house than a semi-detached dwelling. The applicant has a hardship created by the reluctance of the adjoining lot owner to construct in a reasonable time period.

VIII. Staff Analysis

In 1992, in anticipation of building two semi-detached houses, the subject property and the adjoining lot at 105 Evans Lane were legally subdivided creating two lots in compliance with the RB zone regulations as to lot width, lot area and access to off-street parking. Because the adjoining property owner at 105 Evans Lane has delayed construction on his lot, the delay has created a hardship for the applicant to build on the lot at 103 Evans Lane. Staff is not sure when the property owner at 105 Evans Lane will build. Thus, in order to allow the applicant to proceed with construction, staff had defined the subject lot under the RB zone regulations for the purpose of this variance as a single-family dwelling lot. In order to continue to comply with the RB zone regulations, the applicant has designed the new house with the anticipation that the adjoining owner will build a semi-detached dwelling.

There is a justification for hardship. A single-family house cannot be built on the lot without obtaining the necessary variances on lot width and side yard setback. The subject lot was legally created for a semi-detached dwelling conformance with the RB zone regulations. However, because of unique circumstances the applicant cannot pursue construction in compliance with the RB regulations as a single-family dwelling. The new house will comply with the remaining RB zone regulations and will be in scale with similar neighboring homes.

The circumstances of the subject property is unique. The subject property will maintain and compliment the existing development pattern. The combination of the above factors does severely restrict the placement and building of a new house. The applicant has demonstrated a unique legal hardship.

Staff recommends **approval** of the variance.

STAFF: Hal Phipps, Division Chief
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:

- R-1 A PLOT PLAN showing all improvements and alterations to the site must be approved by T&ES prior to issuance of a building permit. (T&ES)
- R-2 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 storm water drainage onto adjacent properties and to the satisfaction of the Director of Transportation & Environmental Services. (T&ES)
- R-3 applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
- R-4 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)
- R-5 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet. (T&ES)
- R-6 No permanent structure may be constructed over any existing private and/or public utility easements, it is the responsibility of the applicant to identify any and all existing easements on the plan. (T&ES)
- R-7 Section 8-1-17 of the City Code requires that curb, gutter and sidewalk be installed at the property owner's expense whenever construction or alteration of a building site will increase the fair market value of the property by more than 50 percent. However, the City Manager has the authority to waive this requirement upon finding that installation of the public improvements will not be compatible with the character of the neighborhood or serve a substantial useful purpose. Provide a design for the missing curb/gutter and sidewalk to be installed as part of this project or seek waiver for same. (T&ES)
- C-1 All utilities serving this site shall be placed underground. (Sec. 5-3-3)
- C-2 Pay sanitary sewer tap fee prior to issuance of a building permit. (Sec. 5-6-25.1)
- C-3 Any work within the right-of-way requires a separate permit from T&ES. Sec. 5-3-61)

- C-4 Roof drains and sub-surface drains shall be connected to the city storm sewer system, if available, by continuous underground pipe. (Sec. 8-1-22)

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):

Historic Alexandria (Archaeology):

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.