

Docket Item #5
BZA CASE #2006-0027

Board of Zoning Appeals
June 8, 2006

ADDRESS: 5091/2 S. FAIRFAX STREET
ZONE: RM, RESIDENTIAL
APPLICANT: LYLE and CHRISTINE ROBERTS, OWNER

ISSUE: Variance to construct an open rear porch reducing the required open space to 405 square feet.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-1106(B)(1)(b)	Open Space	550 sq ft*	405 sq ft	145 sq ft

* Amount existing on June 24, 1992.

Staff **recommends denial** of the request because the applicants have not 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. Finally, the request requires Board of Architectural Review approval.

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I. Issue

The applicants propose to enlarge an existing rear one-story covered open porch with a larger one-story screen porch with a rooftop deck and green roof at their interior townhouse dwelling located at 509 ½ South Fairfax Street. The increase in porch footprint will result in a reduction of open space, below the RM, zone requirement.

II. Background

The subject property, an interior townhouse lot, has 15.00 feet of frontage facing South Fairfax Street, a depth of 113.50 feet and a lot area totaling 1,698 square feet. The subject lot is not substandard for an RM, zoned residential townhouse lot.

The lot currently contains a two-story interior frame townhouse with a rear one-story covered open porch. The dwelling measures 15.00 feet wide by 69.20 feet deep and shares common party walls along the north and south side property lines. The building projects slightly over the front property line into the public right-of-way facing South Fairfax Street and approximately 34.00 feet from the rear property line. As indicated on the submitted plat, the rear property line faces a 10.00 feet wide alley. Real estate assessment records indicate the house was built in 1900. The house was remodeled in 1993.



The property is currently a complying lot with respect to open space. The RM zone requires 35 percent open space or the amount existing on June 24, 1992 whichever is less; the subject property provides approximately 550 square feet in existing open space comprised of the backyard (34 feet by 15 feet) and two areas of open space on either side of the rear porch steps (4 feet by 5 feet). If the expanded screen porch is built a total of 405 square feet of ground level complying open space will be provided, resulting in a variance request of 145 square feet from the open space requirement. The applicants indicate that they plan to build a green roof above the porch expansion and if permitted to count the substandard open space on either side of the new porch steps, open space provided will total 535 square feet, close to the 550 square feet of open space existing on June 24, 1992.

III. Description

The proposed screen porch measures 10.00 feet by 15.00 feet by 17.00 feet in overall height and totals 150 square feet. As shown on the submitted floor plans, the enlarged screen porch will accommodate outdoor seating on the first floor and access to a roof deck and green roof off the second floor master bedroom.

The property is located in the Old and Historic Alexandria District and is under the jurisdiction of the Board of Architectural Review (BAR). The proposed enlarged porch will require approval to build and encapsulate and a certificate of appropriateness for the new construction.

Upon completion of the enlarged screen porch, the property will continue to comply with the allowable floor area. (Refer to attached floor area computation sheet).

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

IV. Master Plan/Zoning

The subject property is zoned RM, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Old Town Small Area Plan for residential land use.

V. Requested variance

Section 3-1106(B)(1)(b), Open Space

The RM zone requires that each property maintain 35 percent or the amount of open space existing on June 24, 1992. The property is a complying lot which currently provides 550 square feet of open space. The enlarged rear porch will reduce the open space to 405 square feet. The applicants seek approval of a variance of 145 square 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 applicants indicate that the 15 feet width of the property makes it challenging to maintain and maximize the required open space, particularly when compared to standard RM width lots of 18 feet wide. Enforcement of the zoning regulations will prevent reasonable use of the property. The applicants desire to use the backyard during more seasons by providing simple shelter from the sun and insects. To compensate for the loss of ground level open space, the applicants propose to build a small second floor deck and green roof that create two useful outdoor areas on the property. The applicants note that the BZA has set a precedent by approving a similar case involving a townhouse addition with a green roof to enable the owner to maximize the use of the property's backyard. (BZA Case#2005-0045)

VIII. Staff Analysis

Staff finds that the strict application of the zoning ordinance does not restrict reasonable use of the property amounting to a confiscation of the property. The lot is currently complying as to required open space (the amount of open space that existing as of June 24, 1992). The zoning regulations allow a property owner to count any open space less than 8 feet by 8 feet on a lot. In this instance the applicants are able to count two small areas on either side of the stairs to the existing covered porch in the open space requirement. In addition, the zoning regulations permits the applicants to screen the existing covered open porch within the same footprint without triggering any zoning requirements. The applicants must go the Board of Architectural Review to modify the existing porch by adding screen material.

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The applicants' lot is similar to other neighboring lots on South Fairfax Street and in therefore not unique as to the specific lot characteristics cited.

There is no hardship established by the applicants. Because the dwelling was constructed prior to the establishment of the zoning ordinance, the building footprint and lot configuration existed at the time the open space requirement of the current zoning ordinance was implemented. Staff believes that the applicants' proposal will have an adverse affect on the development of the block. The elimination of additional ground level open space will also impact the immediately adjacent properties' enjoyment of light and air. Further, the interior of this portion of the block is open and visually unobstructed and staff is concerned that the

enlarged screen porch will continue the pattern of the depletion of limited visual and useable open space. Staff can not support the elimination of open space enjoyed by residents.

Based upon the above findings, staff recommends **denial** 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:

F-1 No comments.

Code Enforcement:

F-1 The proposed design of the lattice work privacy side walls shall be evaluated by Code Enforcement in more detail. The proposed design provides additional enclosure of the porch along interior lot lines which may no longer qualify as an open porch. As a result, these walls may have to be constructed to the requirements of C-1 below.

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.
- C-8 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 specimen trees are affected by this plan.

Historic Alexandria (Archaeology):

- F-1 Tax records indicate the presence of a free African American household on this street face in 1810 and in 1850, but the exact addresses are not known. The 1877 G.M. Hopkins Insurance Atlas depicts a structure on the lot. The property therefore has the potential to yield archaeological resources that could provide insight into domestic activities, perhaps relating to free blacks, in Alexandria during the 19th century.
- R-1 Call Alexandria Archaeology immediately (703-838-4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) 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-2 The above statement must appear in the General Notes of the site plan 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.

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