

Docket Item #9
BZA CASE #2006-0033

Board of Zoning Appeals
July 13, 2006

ADDRESS: 608 MALCOM PLACE
ZONE: R-8, RESIDENTIAL
APPLICANT: HUGH A. SUTHERLAND

ISSUE: Variance to construct two-story additions in the required east and west side yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-306(A)(2)	Side Yard (East)	11.25 ft*	8.19 ft	3.06 ft
	Side Yard (West)	11.25 ft*	8.20 ft	3.05 ft

* Based on a building height of 22.50 feet to the mid point of the gable roof.

BOARD OF ZONING APPEALS ACTION OF JULY 13, 2006: On a motion to defer by Mr. Allen, seconded by Mr. Hubbard, the variance was not deferred by a vote of 2 to 4.

Reasons to defer: To allow the applicant time to explore design alternatives.

Dissenting Reasons: No hardship could be found on the lot, therefore revised plans could not be supported for a variance.

The applicant withdrew the case at the hearing.

Speakers:

Warren Almquist, architect, made the presentation.

Susan Adams, neighbor at 610 Malcolm Place, spoke in opposition.

Paula Tebben, neighbor at 611 Malcolm Place, spoke in opposition.

Jim Gasparis, neighbor at 606 Malcolm Place, spoke in opposition.

Jack Wilmer, neighbor at 504 Malcolm Place, spoke in opposition.

Clark Hamilton, neighbor at 502 Malcolm Place, spoke in opposition.

David Brown, representative from Northridge Civic Association, the civic association takes no position on this case.

Maragret Parker, neighbor at 827 Fontaine Street, spoke in opposition.

Staff **recommends denial** of the request because the applicant has 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.

(insert sketch here)

I. Issue

The applicant proposes to build two-story additions onto the existing house at 608 Malcolm Place that project into the required east and west side yards. The property is currently under construction to build a rear addition and a one-story side yard addition facing the east side property line that does not require a variance.

II. Background

The subject property is one lot of record with 60.00 feet of frontage facing Malcolm Place, a depth of 109.68 feet and totals 6,073 square feet. A two-story brick single-family dwelling is located 30.00 feet from the front property line facing Malcolm Place, 8.20 feet from the east side property line, 17.00 feet from the west side property line and 44.00 feet from the south rear property line. A concrete driveway on the west side of the house leads towards



West side yard

an existing attached garage.

III. Description

The applicant proposes to (1) build a second-story on an one-story side yard addition now under construction and facing the east side property line and (2) build a two-story addition on the west side of the existing house facing the west side property line. The second floor above the side yard addition now under construction measures 9.80 feet by 35.00 feet and by 22.50 feet in height to the midpoint of the new gable roof. The east side yard addition totals approximately 686 square feet. The new addition will accommodate a

den and breakfast room with an optional deck on the first floor and master bedroom and optional roof deck on the second floor. The proposed two-story addition attached to the west wall of the main house measures approximately 8.91 feet by 21.50 feet by 22.50 feet in height from grade to the mid point of the gable roof facing the west side yard property line. The west side yard addition totals approximately 383 square feet. The west side addition may be used to accommodate a sitting room on the first floor and a bedroom on the second floor.



East side yard

The east side addition will be located 8.20 feet from the east side property line and the west side addition will be located 8.19 feet from the west side property line. The two additions are approximately 22.50 feet in height from grade to the midpoint of the gable roofs facing the east and west property lines.

There have been no variances previously granted 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 variance

Section 3-306(A)(2), Side Yard:

The R-8 zone requires a side yard setback of 8.00 feet or one-half the building height whichever is greater. The proposed addition will be located 8.20 feet from the east side property line and 8.19 feet from the west side property line. Based on a building a height of 22.50 feet to the midpoint of the gable roof a side yard of 11.25 feet is required. The applicant requests a variance of 3.05 feet and 3.06 feet respectively.

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 11-1103 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

Strict enforcement of the zoning ordinance will force the applicant to build to the rear of the house that will create an unsightly and poor solution to the applicant's needs. Only a variance will allow for a reasonable two-story addition to be placed on the property. Strict enforcement of the zoning ordinance will create a building mass and a building scale unlike other properties in the subdivision and the building will appear awkward to the neighboring properties.

VIII. Staff Analysis

There is no legal hardship nor confiscation of the use of the property. The subject lot is a complying lot as to lot area and the building currently complies with all applicable yard requirements in the R-8 zone. The property is not unique nor is there existing topography nor a condition (such as large trees or water run-off) unique only to the applicant. The applicant can make improvements to his lot without the need of a variance. One story additions as proposed comply with the zoning regulations. Given the above staff believes there is no basis in which to support any variances.

Staff **recommends denial** of the request.

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:

R-1 City Code Section 8-1-22 requires that roof, surface and sub-surface drains be connected to the public storm sewer system. The building permit plans shall include information on the location of down spouts and/or sump pump discharge along with connections to a public storm sewer if within 100 feet of the property. If a connection is not available, other approved methods to the satisfaction of the Director of Transportation and Environmental Services may be used (refer to attached June 18, 2004, letter from the Director of Transportation and Environmental Services regarding downspouts, foundation drains and sump pumps). (T&ES)

- R-2 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
- C-1 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-3-61)
- C-2 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)
- C-3 Change in point of attachment or removal of existing overhead utility services will require undergrounding or a variance. (Sec. 5-3-3)

Code Enforcement:

- C-1 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-2 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-3 A soils report must be submitted with the building permit application.
- 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 application.

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.