

Docket Item #2
BZA CASE #2006-0056

Board of Zoning Appeals
February 8, 2007

ADDRESS: 3113 RUSSELL ROAD
ZONE: R-8, RESIDENTIAL
APPLICANT: GREGORY AND LAURA MARTIN, OWNERS

ISSUE: Variance to construct a second story and a two story addition located the required side yards.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-306(A)(2)	Side Yard (South) Two-story addition	10.88 feet*	8.10 feet	2.78 feet
3-306(A)(2)	Side Yard (North) Second story addition	10.75 feet**	8.40feet	2.35 feet
	Side Yard (North) Two-story addition	9.75 feet***	8.40 feet	1.35 feet

*Based on a building height of 21.75 feet to the midpoint of the gable facing the south side property line.

**Based on a building height of 21.50 feet to the midpoint of the gable facing the north side property line.

***Based on a building height of 19.50 feet to the midpoint of the gable facing the north side property line.

Staff **recommends denial** of the request because the applicants have not demonstrated a legal 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.

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(insert sketch here)

I. Issue

The applicants propose to renovate their house at 3113 Russell Road by 1) raising the roof of the existing house, 2) adding a second story addition facing the north side property line, 3) adding a two story rear and south side addition, 4) constructing two, one story additions, one on the north side and the other on the south side of the proposed two-story addition.

II. Background

The subject lot is one lot of record with 51.50 feet of frontage facing Russell Road, a depth of 148.31 feet and totals 7,638 square feet of lot area. A two story brick and frame single-family dwelling is located 59.80 feet from the front property line facing Russell Road, 8.40 feet from the north side property line with a rear sunroom 5.90 feet from the north side property line, 12.70 feet from the south side property line and 52.00 feet from the rear property line.



Figure 1- View of north side yard from Russell Road

III. Description

The applicants propose the following alterations to their home. Some of the construction complies with R-8 zoning and does not require a variance or special exception.

- (a) Raise the roof of the existing house measuring from 24.50 feet to 26.50 feet to the ridgeline of the rear roof from grade. Based on the building height of 21.50 feet to the midpoint of the gable, a side yard setback of 10.75 feet is required facing the north side property line. The raised roof portion of the roof will be approximately in line with the existing house which is currently setback 8.40 feet from the north side property line and 12.70 feet from the south property line. The applicants will be increasing the height of an already

noncomplying wall and must request a variance of 2.35 feet for this portion of the house to raise the roof line in the required north side yard.

- (b) Build a second story addition facing the north side yard measures 11.50 feet by 6.00 feet, totaling 69.00 square feet and measures 19.50 feet to the midpoint of the gable from average finished grade. The proposed second story is in line with the existing house located 8.40 feet from the north side property line. Based on the building height of 19.50 feet, a setback of 9.75 feet is required, thus a variance of 1.35 feet is requested.
- c) Build a second story addition facing the north side yard measures 11.50 feet by 6.00 feet, totaling 69.00 square feet and measures 19.50 feet to the midpoint of the gable from average finished grade. The proposed second story is in line with the existing house located 8.40 feet from the north side property line. Based on the building height of 19.50 feet, a setback of 9.75 feet is required, thus a variance of 1.35 feet is requested.
- d) Build a two story rear addition that extends 16.38 feet towards the rear property line and wraps around the southeast corner of the existing house into the south side yard. Upon completion the rear portion of the two-story addition will be located 13.00 feet from the north side property line, 37.50 feet from the rear and 19.40 feet from the south side property line and totals 303 square feet. The addition is 19.25 feet in height to the roof eaves from average finished grade and complies with the required setbacks.



The L-shaped portion of this two-story addition measures 6.80 feet by 14.92, totaling 107.90 square feet and measures 21.75 feet in height to the midpoint of the gable facing the south side property line. The addition will be located 8.10 feet from the south side property line. Based on the building height, a setback of 10.88 feet is required, therefore a variance of 2.78 feet is required.

Figure 2- View of south side yard from Russell Road

- e) Build two, one-story rear additions. The north side one-story addition measures 4.83 feet by 12.00 feet by 10.00 feet in height to the eave and totals 58 square feet. The addition will be located 8.40 feet from the north side property line and 39.50 feet from the rear property line. The south side one-story addition measures 11.30 feet by 6.00 feet by 11.50 feet in height to the midpoint of the gable facing the south side property line and totals 67.80 square feet. The addition will be located 39.50 feet from the rear property line and 8.10 feet from the south side property line. Based on the proposed building heights, both one-story additions comply with zoning regulations and do not require a variance.

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

IV. Master Plan/Zoning

The subject property is zoned R-8 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 3-306(A)(2), Side Yard (North):

The R-8 zone requires a side yard setback of 8.00 feet or one-half the building height whichever is greater. Based on a building height of 21.50 feet to the midpoint of the gable roof, a setback of 10.75 feet from the north side property line is required. The applicants are proposing 8.40 feet, therefore a variance of 2.35 feet is requested.

The second story addition building height is 19.50 feet to the midpoint of the gable roof facing the north side property line. A setback of 9.75 feet from the north property line is required. The applicants propose 8.40 feet, therefore a variance of 1.35 feet is requested.

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

The two-story addition facing the south side property line measures 21.75 feet in height to the midpoint of the gable and requires a setback of 10.88 feet from the south side property line. The applicants propose 8.10 feet, therefore a variance of 2.78 is requested.

VI. Noncomplying structure

The existing building at 3113 Russell Road is a noncomplying structure with respect to the following:

<u>Yard</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Side (Sunroom) (North)	8.00 feet	5.90 feet	2.10 feet
Side (Main house) (North)	9.75 feet	8.40 feet	1.35 feet

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 11-1103 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.

VIII. Applicant's Justification for Hardship

The application states that the strict enforcement of the zoning ordinance will force the applicants to construct an addition that creates an unsatisfactory internal floor plan with the existing house, and will create unreasonably small sized rooms. The application also states that the property is substandard in lot size and has extreme topography at the rear.

IX. Staff Analysis

There is no legal hardship or confiscation of the use of the property. The subject lot at 7,638 square feet is nearly in compliance with the required 8,000 square foot lot area and is consistent in lot area and shape with the surrounding properties. The configuration of the house on the lot is not unique nor is there topography unique only to the subject property. Much of the surrounding neighborhood has similar or in some cases more severe topography. The applicants are proposing an addition in the rear that is feasible with the existing topography.

Staff proposes that the applicant could eliminate or reduce the height of the L-shaped portion of the two-story addition that encroaches into the required south side yard. Without this encroachment the applicants would be requesting to expand the north side wall, already non-complying and would be eligible to apply for a special exception to expand that one non-complying wall. Without the requirement to demonstrate a legal hardship, staff would likely support the special exception. Alternatively, the applicants can reduce the size of the proposed side addition to comply with the R-8 regulations.

Given the reasonable alternatives above, staff finds there is no basis for legal hardship to grant a variance.

Staff **recommends denial** of the variance.

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 In order for T&ES to make a determination whether or not a Plot Plan is required for the proposed improvements, the applicant shall provide the information described below on a copy of the house location plat:

In order to determine the area of disturbance in the absence of a grading plan, the disturbed area will be determined by adding 10' to the perimeter of the building (or addition) footprint and calculating the area within the increased perimeter. In addition a 10' wide access path from the edge of the disturbed area to the street or driveway must be included in the disturbed area calculation. Dumpsters, soil stockpiles and material storage areas must all be within the limits of disturbance as well.

The annotated house location plat must meet the following criteria:

- No reduced, enlarged or faxed copies will be accepted.
- The footprint area of the proposed improvements must be drawn to scale.
- The additional 10' perimeter, construction access and other areas as described above must be shown to scale.
- The overall dimensions of the proposed improvements must be shown.
- The actual square footage of the disturbed area must be shown.

The applicant shall be required to provide this information to the Department of Transportation and Environmental Services, Construction and Inspection Division and/or Engineering Division prior to any applications for building permits. (T&ES)

- R-2 The building permit plans shall comply with requirements of City Code Section 8-1-22 regarding the location of downspouts, foundation drains and sump pumps. Refer to Memorandum to Industry dated June 18, 2004. [Memorandum is available online at the City web site under Transportation\Engineering and Design\Memos to Industry.]. (T&ES)
- R-3 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)

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- 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)
- C-1 Roof, surface and sub-surface drains be connected to the public storm sewer system, if available, by continuous underground pipe. 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. (Sec.8-1-22)
- C-2 All utilities serving this site shall be placed underground. (Sec. 5-3-3)
- C-3 Pay sanitary sewer tap fee prior to issuance of a building permit. (Sec. 5-6-25.1)
- C-4 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-3-61)
- C-5 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 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 Additions and alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit (USBC 108.1). Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application (USBC 109.1).
- C-3 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

- C-4 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-5 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-6 A soils report must be submitted with the building permit application.
- C-7 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-8 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-9 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-10 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):

- F1 The proposed plan does not affect any specimen trees. Root zones of trees located on adjacent properties will be disrupted as a result of this plan, and in obtaining access for construction of the addition to the rear of the property.
- R2 Care should be taken to protect the root zones of trees located on adjacent properties, and avoid unnecessary disruption of these areas.

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.