

Docket Item #3
BZA CASE #2007-0006

Board of Zoning Appeals
May 10, 2007

ADDRESS: 210 KING STREET
ZONE: KR, KING STREET URBAN RETAIL ZONE
APPLICANT: MICHAEL ZARLENGA, OWNER

ISSUE: Variance to construct a second-story in line with the existing building on the rear south property line.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-902(A)	Zone Transition (South)	25.00 feet*	0.00 feet	25.00 feet

* Based on a building height of 22.10 feet to mid-point of the half gable roof.

BOARD OF ZONING APPEALS ACTION OF MAY 10, 2007: On a motion to approve with the condition that the new flounder roof be an appropriate height when viewed with the adjacent flounder roof at 206 King Street by Mr. Zander, seconded by Mr. Hubbard, the variance as amended was approved by a vote of 5 to 0. Mr. Allen recused himself.

Reason: The application met the criteria for a variance as outlined in the staff report.

Speakers:

Duncan Blair, attorney for Michael Zarlenga and Lee Quill, architect, made the presentation.

Robert King, 206-208 King Street, spoke in opposition to the proposed height of the addition.

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.

(insert sketch here)

I. Issue

The applicant proposes to build a second-story rear addition in line with the existing building at 210 King Street. The second-story addition will provide improved office and retail space including a new elevator and bathrooms.

II. Background

The subject property is one lot of record with 25.00 feet of frontage on King Street, a depth of 82.00 feet and totals 2,050 square feet. The property abuts historic Swift Alley.

A two-story brick commercial building with a one and one-half story brick rear addition covers nearly the entire lot with the exception of a narrow open concrete area along the west building wall occupied by air conditioning units. The building is located on the front and rear property lines similarly as the adjoining four other commercial buildings built on the 200 block of King Street. The building is occupied by a retail use in the basement, two restaurants on the first floor, and office and storage on the second and third story to support space the retail business. The building was constructed around 1800 and occupied historically by a merchant starting in 1810.

The subject property abuts commercially zoned lots on the east and west, on the north it faces commercial zoned lots across King Street and is separated on the south by 12.00 feet wide alley known as Swift Alley which also abuts residential properties zoned RM, residential beyond. Since 1951, the subject property has been used and zoned commercially and has always faced residential properties to the south. The subject property is located in the Old and Historic Alexandria District.

III. Description

The proposed second-story rear addition will replace a portion of an existing one and one-half story rear addition that measures 25.00 feet by 18.16 feet and totals approximately 454 square feet and is now located on the rear property line. The overall height of the addition is 25.75 feet to the top of the roof and 22.10 feet to the mid-point of the half gable roof facing the south rear property line. As depicted on the submitted floor plans, the first floor now used by restaurants will be replaced by retail; the renovated second floor including the new second floor addition will be used for an office and storage.

The proposed second floor addition will continue to be located on the east side property, 5.00 feet from the west side property line and on the rear south property line

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

IV. Master Plan/Zoning

Since 1951, the subject property has been zoned commercially. Under the current zoning regulations adopted in 1992, was zoned CD, commercial downtown and in 2006 rezoned

to KR, King Street Urban Retail Zone and identified in the Old Town Small Area Plan for commercial low land use.

V. Noncomplying Structure

The existing building at 210 King Street is a noncomplying structure with respect to the following:

	<u>Existing Setback</u>	<u>Required Setback</u>	<u>Noncompliance</u>
Rear Yard (Zone Transition)	0.00 ft	25.00 ft	25.00 ft

VI. Requested Variance

Section 7-902(A), Zone Transition Setback

The zoning ordinance requires a new commercial building or additions to an existing commercial building that are located next to a residential zone to provide a minimum zone transition setback of 25.00 feet or the height of building whichever is greater. The proposed second-story addition facing the south rear property is 22.10 feet in height to the midpoint of the half-gable roof. The building is currently located on the south rear property line. The applicant requests a variance of 25.00 feet. The proposed addition complies with the setbacks facing the east and west side property lines.

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 11-103 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.

VIII. Applicant's Justification for Hardship

The applicant states strict application of the zoning ordinance prevents reasonable use of the property by imposing unnecessary restrictions and an undue burden on the use and development of the property. To require the zone transition setback will not further a substantial public benefit given the historic pattern of the residential and commercial properties located on Swift Alley. The proposed second-story will not adversely impact the adjoining neighbors and will not reduce light and air the adjoining properties.

IX. Staff Analysis

The subject property and the surrounding properties have been zoned and used commercially and residentially for over 50 years and were established before the current zoning adopted in 1992. The historic rear portion of the building is currently on the rear property line which is consistent with historic character of the residential and commercial buildings that border Swift Alley. Since the early 1800's, the current historic pattern has existed with residential and commercial properties bordering Swift Alley. The historic rear portion of the building is currently on the rear property line as are the adjoining commercial buildings. Swift Alley (12 feet wide) separates the commercial properties from the residentially zoned properties to the south.

The combination of the existing historic commercial building currently located on the rear property line creates limited options on the lot to construct an addition to improve the internal floor plan without affecting the historic structure. The existing rear one-story addition will be modestly expanded and is the only acceptable location to make improvements to the building as determined by the Board of Architectural Review staff. The proposed addition will not exacerbate existing conditions as it pertains to facing the residential properties to the south. The closest most affected residential property is over 25.00 feet from the rear of the subject building. No additional loss of light and air is anticipated by constructing the new rear second floor.

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The granting of the variance will not alter the character of the area nor be detrimental to the adjacent property. The existing physical surroundings have been in existence since the early 1800's. In this case the strict application of the zoning ordinance does create a hardship on the subject property.

Staff recommends **approval** of the zone transition setback variance.

STAFF: Stephen Milone, Chief, Planning and Zoning, 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:

- 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 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-5 New construction 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 Historical documents indicate that mixed commercial/residential structures were present on this street face by the end of the 18th century. According to Ethelyn Cox's *Historic Alexandria, Street by Street, A Survey of Existing Early Buildings*, the house on this lot was built around 1800 by John Ramsay. Tax records from 1810 note that James Sanderson, a merchant, occupied the building, which was still owned by Ramsay. The property therefore has the potential to yield archaeological resources that could provide insight into residential and commercial activities in the core of the 18th and early 19th – century town.
- F-2 This project does not involve ground disturbance. No archaeological action is required.