

Docket Item #4
BZA CASE #2007-0018

Board of Zoning Appeals
July 12, 2007

ADDRESS: 812 WEST BRADDOCK ROAD
ZONE: R-8, RESIDENTIAL
APPLICANT: IRWIN AND JOAN SINGER, OWNERS

ISSUE: Variance to enclose a one-story open area under an existing roof 7.20 feet from the southeast side property line.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-306(A)(2)	Side Yard (Southeast)	8.00 feet*	7.20 feet	.80 feet

*Based on a building height 10.50 feet to the top of the area to be enclosed.

Staff **recommends approval** of the request because the applicants have 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.

BOARD OF ZONING APPEALS ACTION OF JULY 12, 2007: On a motion to approve by Mr. Allen, seconded by Mr. Zander, the variance was approved by a vote of 6 to 0.

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

Speakers:

Irwin Singer, owner, made the presentation.

(insert sketch here)

I. Issue

The applicants' propose to enclose a one-story open area under the existing roof at 812 West Braddock Road.

II. Background

The subject property is one lot of record with 44.00 feet of frontage facing West Braddock Road and a depth of 152.30 feet along the southeast property line and 163.90 feet along the northwest property line. The property contains a total of 9,959 square feet of lot area. The property is noncomplying as to the minimum lot width at the front building line, which is 65.00 feet in the R-8 zone.

The lot is developed with a one and one-half story single family brick and frame dwelling with open front porch located 30.30 feet from the front property line facing West Braddock Road, 6.90 feet from the southeast side property line, 6.00 from the northwest side property line and 77.00 feet from the rear property line. As indicated on the submitted plat, the existing house is built within the required side yards and in compliance with the required rear and front yards. According to real estate assessment records the house was constructed in 1950. Because the existing house is built within the required southeast and northwest side yards it is identified as a noncomplying structure. A noncomplying structure may be altered as long as such improvements comply with the applicable zone requirements. In 1989, BZA #5841 was granted for a variance to raise the roof of the existing house in the required southeast side yard, thus removing the noncomplying status of the southeast building wall. Since the applicants are proposing to enclose the open portion of southeast wall approved by variance (BZA#5841), they must request a variance.

There have been two variances previously granted for the subject property. On June 6, 1989, the Board approved BZA #5841, a variance to raise the roof of the existing house and replace an existing trellis with a more substantial wood trellis in the required southeast side yard. On July 11, 1991, the Board approved BZA #6162, a variance to construct a deck in the southeast side yard. (Staff reports attached). In both previously approved variance cases the Board found that "strict application of the terms of the zoning ordinance unreasonably restrict the owner's use of the property."



III. Description

The applicants propose to enclose a one-story open area, 8.50 feet by 14.00 feet, under the existing roof, 6.90 feet from the southeast property line, totaling 119 square feet. Based on the height of 10.50 feet to the top of the area to be enclosed under the existing roof, a setback of 8.00 feet is required. Therefore, the applicants request a variance of .80 feet to enclose the area under the existing roof.

Upon completion of the work, the proposed renovations will continue to comply with the floor area requirements.

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 North Ridge/ Rosemont Small Area Plan for residential land use.

V. Requested variances

Section 3-306(A)(2) Side Yard(Southeast)

The R-8 zone requires a setback from the side property line of 8.00 feet or one-half of the building height whichever is greater. Based on the height of 10.50 feet to the top of the area to be enclosed under the existing roof, a setback of 8.00 is required to enclose the open area under the existing roof. The applicants request a variance of .80 feet.

VI. Noncomplying Structure

The original dwelling at 812 West Braddock Road was a noncomplying structure with respect to both required side yards. In 1989, BZA #5841 was granted for a variance to raise the roof of the existing house in the required southeast side yard, thus removing the noncomplying status of the southeast building wall.

The existing garage was not altered by a variance and therefore continues to be noncomplying with respect to the following:

<u>Yard</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Side (garage) Northwest	8.00 feet	6.60 feet	1.40 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.

BZA 2007-0018

- (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 was produced by the zoning ordinance and 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 applicants state that the strict enforcement of the zoning ordinance will prevent reasonable use of the property if the open area under the existing roof is not incorporated into the house space. The applicants have indicated that the area underneath the proposed addition will be a basement stairwell to provide proper egress from the basement. The According to the applicant, without enclosing the area above the stairwell and below the existing roof, the area would become unusable space.

IX. Staff Analysis

In 1989, the Board found that the strict application of the zoning ordinance restricted the owners' use of the property and the applicants were granted a variance to expand the existing noncomplying southeast side wall in order to raise the roof. The area the applicants are proposing to enclose is modest in size and is in line with the existing building wall. Enclosing the existing open area does not increase the floor area or the

BZA 2007-0018

footprint of the existing dwelling. The proposal will not impair light and air to the adjoining property, nor alter the character or be detrimental to the neighborhood.

Therefore, staff **recommends approval** 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 At the time of application for a building permit the applicant shall provide, to the Department of Transportation and Environmental Services, 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.
- 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)
- 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 2,500 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)

Code Enforcement:

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- 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 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 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-5 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-6 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 variance.

Historic Alexandria (Archaeology):

- F-1 There is low potential that this project will 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.