

Docket Item #2  
BZA CASE #2007-0022

Board of Zoning Appeals  
October 11, 2007

**ADDRESS:** 210 EAST TAYLOR RUN PARKWAY  
**ZONE:** R-2-5, RESIDENTIAL  
**APPLICANT:** SHARI AND JESUS BENITES, OWNERS

**ISSUE:** Variance to cover an existing deck in the required south side yard.

---

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard (South)	10.00 feet	5.50 feet	4.50 feet

---

**BOARD OF ZONING APPEALS ACTION OF OCTOBER 11, 2007:** On a motion to approve by Mr. Goodale, seconded by Mr. Hubbard, the variance was denied by a vote of 2 to 4. Messrs. Allen, Curry, Lantzy and Zander dissented.

Reasons to approve: The same conditions that resulted in the original hardship finding, the slope of the land and the substandard character of the lot, (BZA#98-0026) continue to exist. The variance will have no adverse impact on the neighborhood.

Dissenting reason: The applicant failed to demonstrate a legal hardship.

Speakers:

Shari Benites, owner, made the presentation.

**BOARD OF ZONING APPEALS ACTION OF SEPTEMBER 13, 2007:** On a motion to defer by Mr. Goodale, seconded by Ms. Lewis, the variance was deferred by a vote of 6 to 0.

Reason: To allow the applicant time to explore design alternatives.

Speakers:

Shari Benites, owner, made the presentation.

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

**BZA CASE #2007-0022**

If the Board decides to grant a variance, it should contain the conditions under the department's 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 applicants propose to add a roof and enclose an existing open deck 5.50 feet off of the south side property line for the property at 210 E. Taylor Run Parkway.



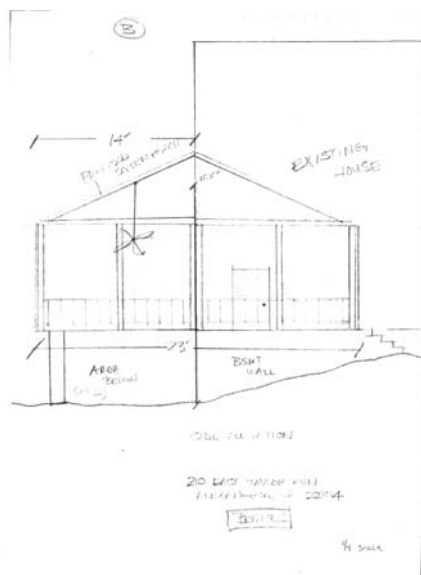
II. **Background**

The subject property is one lot of record with a width of 25.84 feet facing East Taylor Run Parkway, a depth of 116.11 square feet, and a lot area of 3,001 square feet. The property is developed with a two-story semi-detached brick dwelling with a basement built in 1953. The house is located 9.50 feet from the south side yard and shares a common party wall on the north side property line with the house at 212 East Taylor Run. The house sits 29.90 feet from the front property line facing East Taylor Run Parkway.

III. **Description**

The applicants propose to enclose an existing deck. The existing open side deck measures 8.50 feet by 54.00 feet, connecting to a larger deck section, 18.75 feet by 14.00 feet for a total of 296.50 square feet and is located approximately 7.00 feet above grade at the rear of the house. The new roof and enclosed area will be in line with the existing deck. The height of the new screened deck from grade to the midpoint of the side-yard gable roof is approximately 15.50 feet. A side yard setback of 10.00 feet is required. There has been one variance previously granted (BZA98-00026) for the subject property

to construct an open deck 5.50 feet from the property line. The Board of Zoning Appeals granted a variance to erect an open deck 5.50 from the side property line.



Because the applicants are requesting to enclose a deck in the required south side yard that was previously granted by variance, they are only eligible to apply for a variance; hence, they are requesting another variance of 5.50 feet from the side property line.

If the variance is granted, upon completion of the work, the proposed renovations will comply with the floor area ratio requirements.

**IV. Master Plan/Zoning**

The subject property is zoned R-2-5 and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Taylor Run/Duke Street Small Area Plan for residential land use.

**V. Requested variances**

Section 3 -506(A)(2), Side Yard

The R-2-5 zone requires that each semi-detached home has one side yard setback of 10.00 feet or one-third the building height, or whichever is greater. The proposed enclosed deck will be located 5.50 feet from the south side property line. The applicants request a reduction in the required side yard to 4.50 feet facing the south side property line.

**VI. Noncomplying structure**

The existing building located at 210 East Taylor Run Parkway is a noncomplying structure with respect to the following:

<u>Yard Provision</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Lot Width	37.50 feet	25.84 feet	11.66 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.

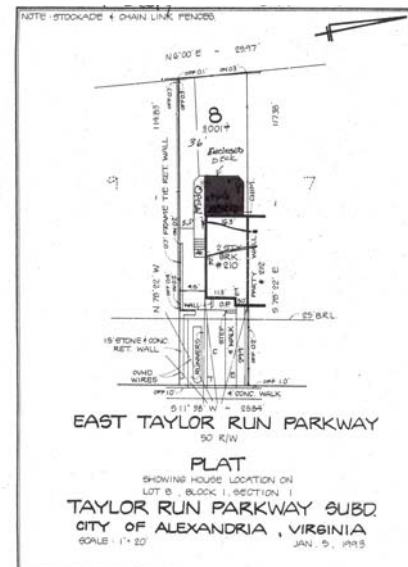
**VIII. Applicant’s Justification for Hardship**

The applicants state that the topography and the substandard size of the lot is a hardship and that strict enforcement of the zoning ordinance will prevent reasonable use of the property without a variance being granted for the property. The owners state that their property abuts to Taylor Run Creek which is a breeding ground for mosquitoes and other pests. The homeowners have been notified that birds in the neighborhood were found to have the West Nile Virus. By enclosing the area within the required side-yard setback, the applicants will be able to walk directly from the kitchen into the screen porch through an existing side door. For these reasons, they wish to now enclose the deck that was previously granted a variance in 1998.

**IX. Staff Analysis**

There is no legal hardship or confiscation of the use of the property. The lot shares similar characteristics of other lots along the blockface. While this lot does not meet the minimum lot width, there are other homes along the block that share the same characteristics.

Staff noted that, of the homes that are visible from the subject property, none have covered or screened decks. These homes are similar to the subject property in that they also back up to the Taylor Run Creek with similar topography. Staff believes that a reasonable alternative to the applicant’s submission exists that can comply with zoning.



**Figure 1**

While staff understands the applicant’s desire to link the existing side door to the porch, the applicants could reconfigure to create an open walkway 4.00 feet wide along the side of the house and enclose the portion of the open deck 16.30 feet by 11.04 feet for a enclosed area of 180.00 square feet. By choosing this alternative (see Figure 1), the applicants would comply with the R-2-5 side yard setback requirement without having to seek a variance.

**BZA CASE #2007-0022**

The owner addressed the alternative in their application but found it to be unfeasible.

Therefore, 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:

F-1 No comments.

Code Enforcement:

C-1 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-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

Recreation (Arborist):

F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

F-1 There is low potential for significant archaeological resources to be disturbed by this project. 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.