

Docket Item #3
BZA CASE #2007-0031

Board of Zoning Appeals
November 8, 2007

ADDRESS: 202 DUKE STREET
ZONE: RM, RESIDENTIAL
APPLICANT: KENNETH AND ESTHER CARPI, OWNER

ISSUE: Variance to construct an accessory structure (shed) forward of the front building wall.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-103(A)	Accessory Structure	45.50 feet *	28.00 feet	17.50 feet

* Distance of existing front building line from the front property facing Duke Street.

BOARD OF ZONING APPEALS ACTION OF NOVEMBER 8, 2007: On a motion to approve by Ms. Lewis, seconded by Mr. Hubbard, the variance was approved by a vote of 6 to 0.

Reason: The Board agreed with the staff analysis that the applicant had demonstrated a hardship due to the location of the existing dwelling on the rear property line.

Speakers:

Kenneth Carpi, owner, made the presentation.

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 applicants propose to construct a garden shed forward of the front building wall at 202 Duke Street.

II. Background

The subject property is one lot of record with 27.83 feet of frontage facing Duke Street and a depth of 91.50 feet. The property contains 2,546 square feet of lot area and is located within the Old and Historic Alexandria District. The property is developed with a two and one-half story brick single family dwelling located 45.50 feet from the front property line facing Duke Street and on the east, west and south property lines.

The Board of Zoning Appeals has decided four variance cases for the subject property as described below. (Staff reports are attached.)

On June 9, 1977, the Board granted BZA case #1638, a variance to construct a one-story addition on the east side property line. The variance was granted because it was reasonable and had no adverse impact on the adjacent property owner

On November 10, 1988, the Board denied BZA case #5672, variances to construct a second-story addition above the existing one-story addition on the east side and rear property lines. The variance was denied because “no sufficient showing of hardship to warrant granting a variance of this degree” was demonstrated and the proposal may have deprived surrounding properties of light and air.

On November 9, 1989, the Board granted BZA case #5898, variances to raise the roof on an existing one-story addition on the east side and south rear property lines. The variances were approved because the applicant demonstrated a hardship and the adjacent properties would not be adversely affected. The work was never done and the variances have expired.

On January 11, 1996, the Board granted a portion of the BZA case #95-0050, a variance to raise the roof of the existing two-story rear portion of the dwelling in the required rear yard. The variance was approved because strict application of the zoning ordinance would unreasonably restrict the applicant’s use of the property in that it would prohibit the existing structure being brought into code compliance and the adjacent properties would not be adversely impacted. The Board denied the variances to construct a second story addition in the required rear and east side yards because the applicant failed to demonstrate an undue hardship and the proposed addition would block light and air to the adjacent properties.

III. Description

The applicants propose to construct a garden shed, measuring 5.50 feet by 7.00 feet and 7.00 feet in height. The proposed garden shed totals 38.50 square feet and is located within 1.00 foot of the west side property line, 21.00 feet from the east side property line and 28.00 feet from the front property line, forward of the front building wall. The zoning ordinance permits small sheds no larger than 50.00 square feet and no taller than 7.00 feet to be located within any yard except a front yard. The required front yard setback in the RM zone is the same as the front lot line, however the zoning ordinance also states that no accessory structure shall be located forward of the front building wall. In this case, the front building wall is located 45.50 feet from the front property line, therefore the applicant must seek a variance to locate the garden shed, an accessory structure, forward of the front building wall, 28.00 feet from the front property line.

The project is located within the boundaries of the Old and Historic Alexandria District and under the purview of the Old and Historic Alexandria Board of Architectural Review. On September 5, 2007, the Board of Architectural Review approved the application, BAR Case #2007-0126, for a new Certificate of Appropriateness for the construction of a new shed, conditioned upon the Board of Zoning Appeals granting a variance for the shed located forward of the front building line.

IV. Master Plan/Zoning

The subject property is zoned RM and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Old Town Small Area Plan for residential land use.

V. Requested variances

Section 7-103(A) Accessory Structures

The applicants request a variance to construct a one-story garden shed 28.00 feet from the front property line, forward of the front building wall.

VI. Noncomplying structure

The existing building at 202 Duke Street is a noncomplying structure with respect to the following:

<u>Yard</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Side (East)	5.00 feet	0.00 feet	5.00 feet
Rear	16.00	0.00 feet	11.00 feet *

* Based on a credit of 5.00 feet from the centerline of the rear public alley towards the required rear yard setback.

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 existing dwelling is located along the entire length of the rear property line. The the property has no rear yard. Most other properties in the immediate neighborhood have a rear yard where a small shed could be located. According the applicants, the most affected neighbors at 204 Duke Street have been shown the plans and they do not object.

IX. Staff Analysis

Staff agrees with the applicants' justification for a hardship. The location of the existing dwelling on the rear property line and the open trellis located within the east side yard behind the front building wall, leave no buildable area for a small garden shed except forward of the front building wall. The proposed shed is modest in size and will be located 28.00 feet from the front property line. The garden shed will not adversely impact adjacent properties. The location of the existing dwelling on the side and rear property lines create a hardship on the lot.

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:

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, with no openings permitted within the wall. As alternative, a 2 hour fire wall may be provided.
- C-2 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- 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 details the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-5 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-6 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.
- C-7 A soils report must be submitted with the building permit application.

Recreation (Arborist):

F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

- F-1 This property has the potential to provide information about residents of late 18th/early 19th-century Alexandria. According to Ethelyn Cox's *Historic Alexandria, Virginia, Street by Street*, the house on this lot was constructed by William Mitchell, who purchased the property in 1795. Subsequent early 19th-century owners include Samuel Craig and John Gardner Ladd. There is the potential for archaeological resources to be present that could provide information about late 18th/early 19th-century residential life.

- R-1 The applicant/developer shall call Alexandria Archaeology immediately (703-838-4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during development. Work must cease in the area of the discovery until a City archaeologist comes to the site and records the finds.

- R-2 The applicant/developer shall not allow any metal detection to be conducted on the property, unless authorized by Alexandria Archaeology.

- R-3 The statements in Conditions 1 and 2 above shall appear in the General Notes of all site plans and on all site plan sheets that involve demolition or ground disturbance (including Erosion and Sediment Control, Grading, and Sheeting and Shoring) so that on-site contractors are aware of the requirements. Additional statements to be included on the Final Site Plan will be determined in consultation with Alexandria Archaeology.

- R-4 If this project is a federal undertaking or involves the use of any federal funding, the applicant shall comply with federal preservation laws, in particular Section 106 of the National Historic Preservation Act of 1966. The applicant will coordinate with the Virginia Department of Historic Resources and the federal agency involved in the project, as well as with Alexandria Archaeology.

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.