

Docket Item #6 (REVISED)
BZA CASE #2007-0035
Board of Zoning Appeals
November 8, 2007

ADDRESS: 1113 QUEEN STREET
ZONE: CL, COMMERCIAL
APPLICANT: MONIQUE BROCKINGTON BANKS, OWNER

ISSUE: Variance to construct a two-story rear addition located in the required east and west side yards.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
4-106(A) (2) (a)	Side Yard (Two-Story Addition)			
	(East)	8.00 ft*	1.00 ft	7.00 ft
	(West)	8.00 ft*	1.00 ft	7.00 ft

* Based on a building height of 20.00 feet to the highest point of the new flat roof.

BOARD OF ZONING APPEALS ACTION OF NOVEMBER 8, 2007: On a motion to approve by Mr. Zander, seconded by Mr. Allen 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 narrowness of the lot.

Speakers:

Monique Brockington Banks, owner, made the presentation.

Staff **recommends approval** of the request because the applicant has demonstrated a hardship.

The approval is conditional on the review and approval of the Parker-Gray Historic District.

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.

I. Issue

The applicant proposes to build a two-story addition at the rear of her existing house at 1113 Queen Street.

The subject property is one lot of record with 20.00 feet of lot width facing Queen Street and a depth of 100.00 feet and a lot area of 2,000 square feet.

II. Background

A two-story detached stone and stucco dwelling occupies the subject property and is located on the front property line facing Queen Street, less than 1.00 feet from the east side property line, 1.00 feet from the west side property line and 61.50 feet from rear building wall to the north rear property line. A public alley 10.00 feet wide abuts the property along its north property line. Real Estate Assessment records indicate the house was built in 1920.

III. Description

The applicant seeks a variance to construct a two story rear addition. The proposed two-story addition measures 17.70 feet by 18.40 feet and totals approximately 651 square feet. Upon completion of the addition the overall height from grade to the top of the highest point of the flat roof of the building will be 20.00 feet. The two-story addition will be located 1.00 feet from the east side property line and 1.00 feet from the west side property line.

The subject lot is located in the Parker-Gray Historic District and is under the jurisdiction of the Board of Architectural Review (BAR). The proposed new construction will require approval of a Permit to Demolish and a Certificate of Appropriateness by the BAR.

Upon completion of the proposed addition the property will continue to comply with required floor area and open space.

IV. Master Plan/Zoning

The subject property is zoned CL, commercial 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 commercial and residential land use.

V. Requested variances

Section 4-106(A) (2) (a) Side Yard (East and West)

CL zone requirements state that each single-family residential use must provide two side yards of a minimum 8.00 feet each or one-third the building height whichever is greater. The proposed addition is located 1.00 feet from the east side property line and 1.00 feet from the west side property line. The applicant requests a variance of 7.00 feet and 7.00 feet respectively from the east side property line and west property line.

VI. Noncomplying structure

The existing building at 1113 Queen Street is a noncomplying structure with respect to the following:

<u>Yard</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Side (East)	8.00 ft	1.00 ft	7.00 ft
Side (West)	8.00 ft	1.00 ft	7.00 ft

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 that the ordinance creates an unreasonable hardship and prevents a reasonable use of the property. The subject property is 20.00 feet wide. The imposition of two 8.00 feet side yards on a narrow lot renders the lot unbuildable.

IX. Staff Analysis

This case clearly demonstrates a legal hardship. The narrowness of the lot completely precludes any physical expansion. The zoning ordinance requirement of two side yards of 8.00 feet renders the lot unbuildable. The two side yards totaling 16.00 feet on a 20.00 feet wide lot results in only a 4.00 feet wide building area. Single-family dwellings in the CL zone are required to provide a minimum of 50.00 feet of frontage, thus the two eight foot side yard requirements are intended to maintain setbacks on much larger residential lots than the subject property. In this case the strict application of the zoning ordinance as applied to the subject property will create a hardship.

No alternatives exist, except rezoning of the property, which would allow physical expansion of this dwelling. The narrowness of the lot and the lack of adverse public impact sufficiently support hardship in this case.

Staff **recommends approval** of both variances.

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 An approved Plot Plan may be required at the time of building permit application. Insufficient information has been provided to make that determination at this time. A Plot Plan will be required if construction of the proposed addition:
- Results in a new building footprint that exceeds the area of the existing building footprint by 100% or more.
 - Results in less than 50% of the existing first floor exterior walls, in their entirety, remaining. The walls must comprise the footprint of the existing building and shall be measured in linear feet. The remaining walls must remain as exterior walls. The definition of a first floor exterior wall is that it must have its finished floor surface entirely above grade.
 - Results in land disturbance associated with the project of 2,500 square feet or greater in area. The disturbed area will be determined by adding a minimum of 10' to the perimeter of the building (or addition) footprint and calculating the area within the increased perimeter. In addition, a 10 foot wide access path from the edge of the disturbed area to the street or paved driveway must be included in the disturbed area calculation. Provision must be made for stockpile, staging, dumpsters and material storage areas within the limits of disturbance.
 - Changes to existing grade elevation of 1-foot or greater.
 - Changes to existing drainage patterns.
- R-1 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-2 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
- R-3 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)

BZA CASE #2007-0035

- R-4 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)
- 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 Compliance with the provisions of Article XIII of the City's zoning ordinance for storm water quality control is required for any land disturbing activity greater than 2,500 square feet. (T&ES)

Code Enforcement:

- C-1 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 be taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.
- C-2 Before a building permit can be issued on any proposed future alterations, a certification is required from the owner or owner's agent that the building has been inspected by a licensed asbestos inspector for the presence of asbestos (USBC 110.3).
- C-3 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-4 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-7 Sheeting and shoring shall not extend beyond the property line; except when the developer has obtained a written release from adjacent property owners which has been recorded in the land records; or through an approved encroachment process.

- C-8 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-9 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-10 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-11 A soils report must be submitted with the building permit application.
- C-12 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):

No Comments received

Historic Alexandria (Archaeology):

- F-1 Historical maps indicate the presence of 19th-century houses in the vicinity of this property. There is the potential for archaeological resources to be present that could provide insight into residential life in early Alexandria.
- 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

BZA CASE #2007-0035

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.