

Docket Item #4
BZA CASE #2007-0016

Board of Zoning Appeals
December 13, 2007

ADDRESS: 406 HIGH STREET
ZONE: R-8, RESIDENTIAL
APPLICANT: EVELYN HARRISON, OWNER

ISSUE: Variance to construct a screen porch in the required front yard facing Ruffner Road

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(1)	Front Yard (Ruffner Rd)	30.00 ft	15.58 ft	14.42 ft

BOARD OF ZONING APPEALS ACTION OF DECEMBER 13, 2007: On a motion to approve with the conditions that the porch never be enclosed and that landscaping around the porch must be maintained by Mr. Hubbard, seconded by Ms. Lewis, the variance was approved by a vote of 4 to 3. Messrs. Curry, Lantzy and Zander dissented; Messrs. Allen and Goodale voted in favor.

Reasons to approve: The applicant demonstrated a hardship due to the location of the house on the lot and its construction prior to the current zoning ordinance, the existing underground springs limiting the buildable area. The presence of a grass area of public right of way which acts as a buffer and is currently maintained by the applicant.

Dissenting Reasons: The location of the house closer to the property, the large size of the lot and the lack of confirmation of underground springs restricting the buildable area failed to rise to the level of a hardship.

Speakers:

Evelyn Harrison, made the presentation.

Staff **recommends denial** of the request because the applicant has not demonstrated a hardship.

BZA 2007-0016

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.

Deferred prior to the September 13, October 11 and November 8, 2007 hearings by applicant.

(insert sketch here)

I. Issue

The applicant proposes to build a covered screen porch located in the required front yard facing Ruffner Road for the house at 406 High Street.

On September 11, 2003, the Board of Zoning Appeals denied a variance for the subject property to build a similar size screen porch facing Ruffner Road. On a motion to approve the variance was denied by a vote of 4 to 2. The BZA members at that time voted to deny the variance because they believed the applicant had failed to demonstrate a legal hardship. (BZA Case #2003-0020). The application now before the BZA is the same request as presented in 2003.

Because the subject property is a corner lot and the proposed screen porch is located in the secondary front yard facing Ruffner Road, the property cannot qualify for a special exception under the new adopted open covered porch regulations. A front porch projecting into required front yard is only permitted on the primary front entrance or on a corner lot where a new porch if built complies with the applicable front setback. If the applicant did qualify for a special exception, the proposed porch will be located no closer than 15.00 feet facing the front property line on Ruffner Road as required by the new porch regulations.

II. Background

The subject property, a corner lot, is three lots of record with 130.00 feet of frontage facing High Street and 150.00 feet of frontage facing Ruffner Road. The property contains a total of 19,500 square feet, and the east side property line abuts a public alley 15.00 feet wide.

The property is developed with a single-family dwelling located 40.70 feet from High Street, 27.20 feet from Ruffner Road, 45.00 feet from the south side property line and 39.30 feet from the east side property line. The house is approximately 100 years old.

III. Description

The proposed screened porch measures 16.10 feet by 24.75 feet by 14.50 feet in height from grade to the ridge line of the roof. The screened porch totals approximately 398 square feet of new floor area. The proposed screened porch will be located 41.30 feet from the front property line facing High Street and 15.58 feet from the front property line facing Ruffner Road. The applicant requests a variance of 14.42 feet facing Ruffner Road.

The applicant indicates the proposed porch construction will help eliminate and divert continued water build up and damage in the basement of the house along the Ruffner Road side of the house. The applicant states the property is one of a few properties in the immediate area which sits on an underground spring.

The applicant states the following additional constraints and factors in order to build a screen porch on the property:

- (a) the combination of the large lot and the placement of the existing house which is not centered on the lot but closer to Ruffner Road than High Street makes it impossible to build facing Ruffner Road without the relief of a variance;
- (b) the proximity of existing trees on the property limits the location to build;
- (c) the presence of an underground stream near the house foundation near Ruffner Road creates water problems (the proposed porch is to help divert water away from the main house).
- (d) the architecture of the main house contributes significantly to any new building design. The proposed screened porch is intended to compliment the existing house and visually balance its appearance from High Street (refer to attached elevations). However, it is not the request from High Street that the applicant requests relief but from Ruffner Road.
- (e) the mass and scale of the house, including the proposed screened porch is proportionate to the size of the subject lot which is 19,500 square feet (twice as large as the minimum required for an R-8 zone corner lot).

There has been a side yard variance previously granted for the subject property to renovate an existing accessory structure to a detached garage with a second floor residential studio. (BZA Case#2000-00045).

Upon completion of the new porch the property will continue to comply with the maximum floor area allowed.

IV. Master Plan/Zoning

The subject property is zoned R-8 and has been so zoned since 1951 and identified in the North Ridge/Rosemont Small Area Plan for residential land use.

V. Requested variance

Section 3-506(A)(1), Front Yard (Ruffner Road):

The R-8 zone requires a front yard setback of 30.00 feet facing Ruffner Road. The proposed screen porch is to be located 15.58 feet from the front property line facing Ruffner Road. The applicant requests a variance of 14.42 feet for the new screen porch.

VI. Noncomplying structure

The existing building at 406 High Street is a noncomplying structure with respect to the following:

	<u>Required</u>	<u>Provided</u>	<u>Noncompliance</u>
Front Yard(Ruffner Rd)	30.00 ft	27.00 ft	3.00 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 11-1103 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 applicant states the zoning ordinance places an unreasonable restriction for a corner lot by imposing two front yards setbacks. The applicant also elaborates on the unique conditions of the lot which justifies a legal hardship.

- (1) The existing house is not centered on the lot and is over 100 years old. Any improvements made to the house must be in harmony with its original historic architecture. The proposed screen porch is designed to be architecturally in harmony with the house and not detract from its original design. Since the house is not centered on the lot but projects into the required front yard facing Ruffner Road any improvements made to the house facing Ruffner Road can only be done by variance. There is no other alternative available without affecting the existing architecture.
- (2) The existing house protrudes closer to the front property lines than any other house in Ruffner Road. This condition makes the property unique with similarly situated houses.
- (3) The subject property is unique because of its water problems. Several underground streams on the property cause standing water after heavy rains and because of the grading done by the City in the past along Ruffner Road has resulted in water seepage into the building's basement. The proposed screen porch will help in keeping water away from the main building walls.
- (4) The existing house built 100 years ago predates the current R-8 zoning first adopted in 1951. The existing house does not comply with the current R-8 zone regulations.
- (5) The proposed porch does not qualify for the special exception rules recently adopted for front porches. Property owners on corner lots are biased by the new regulations which are singularly tailored to interior lots only.
- (6) An open grass area (maintained by the applicant) which measures nearly 25 feet from the edge of the new porch to the Ruffner Road curb will remain open (nearly comparable to the 30 feet from yard setback facing Ruffner Road). In fact, there are no plans by the City to require the open grass area for widening of Ruffner Road.

XI. Staff Analysis

The property is not irregular in shape and does not have topographic constraints. In fact, this corner property is a large rectangular platted lot which is not substandard in lot area and has greater lot frontage than prescribed by the R-8 zone. The zoning ordinance does not impose a hardship on the applicant for improvements to the lot. Alternatively, a smaller open porch could be constructed in compliance with the 30.00 feet required front setback the main front entrance on High Street. The new porch will be placed within

BZA 2007-0016

16.00 feet of the front property line on Ruffner Road, forever altering the blockface on this side of Ruffner Road. Strict application of the zoning ordinance does not prevent reasonable use of the property.

Staff recommends **denial** of the variance request.

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 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).
- C-3 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-4 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-5 A soils report must be submitted with the building permit application.
- C-6 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-7 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-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 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):

- F-1 No specimen trees are affected by this variance.

Historic Alexandria (Archaeology):

- F-1 There is low potential for this project to 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.