

Docket Item #3
BZA CASE #2007-0039

Board of Zoning Appeals
February 14, 2008

ADDRESS: 480 NAYLOR PLACE
ZONE: R-8, RESIDENTIAL
APPLICANT: KATRINA & TERRELL AMBROSE

ISSUE: Variance to construct a one-story addition 7.30 feet from the south side property line, a second story addition 15.00 feet from the rear property line and a two-story addition 10.50 feet from the rear property line.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-306(A)(2)	Side Yard	8.00 feet	7.30 feet	0.70 feet
3-306(A)(3)	Rear Yard (rear two-story addition)	19.62 feet*	10.50 feet	9.12 feet
3-306(A)(3)	Rear Yard (second story addition)	20.50 feet**	15.00 feet	5.50 feet

*based on a building height of 19.62 feet to the midpoint of the gable roof.

**based on a building height of 20.50 feet to the eave of the new second story addition.

BOARD OF ZONING APPEALS ACTION OF FEBRUARY 14, 2008: On a motion to approve by Mr. Allen seconded by Mr. Goodale, the variance was approved by a vote of 5 to 1. Mr. Zander dissented.

Reason to approve: The applicant demonstrated a hardship due to the topography and runoff conditions on the property.

Dissenting Reason: The applicant failed to provide sufficient documentation of hardship with regard to the topography and runoff conditions on the property.

Speakers:

Terrell Ambrose, owner and William Brandon, architect, made the presentation.

Anthony Ryan, neighbor at 478 Naylor Place, spoke in support.

Deferred prior to the January 10, 2008 hearing by applicant.

BZA CASE #2007-0039

Staff **recommends denial** of the request because the applicants have not 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 Picture Here)

I. Issue

The applicants propose to construct a one-story addition 7.30 feet from the south side property line and a two-story addition 10.50 feet from the rear property line at the house at 480 Naylor Place.

II. Background

The subject property is an interior lot with 95.78 feet of frontage facing Naylor Place, and depths of 72.44 feet and 95.92 feet on the north and south side property lines, respectively. The lot is somewhat irregular in shape primarily along the front property line. The lot contains a total of 8,485 square feet of area.

The property is developed with a one-story single-family dwelling located 33.00 feet from the front property line, 36.80 feet and 12.50 feet from the north and south side property lines, respectively, and 17.00 feet from the rear property line. The house complies with the R-8 zone requirements. The existing dwelling contains 1,352 square feet of floor area and is approximately 50 years old.

III. Description

The applicants propose to add a second story addition above the existing house as well as a rear two-story and one-story addition, increasing the total area of the house to 2961.75 square feet. The proposed one-story addition extends 4.25 feet from the plane of the existing building wall to a point 7.30 feet from the south side yard property line. The addition is 10.50 feet in height from grade to the eave line. The applicants request a variance of 0.70 feet facing the south side property line.

The proposed second story and two-story rear addition total 1,874 square feet. The second story addition measures 20.50 feet in height to the eave line at the eastern most corner of the existing house and is located 15.00 feet from the rear property line. The two-story rear addition has a height of 19.62 feet to the midpoint of the gable roof. At the closest point to the rear property line, the addition is 10.50 feet away. The applicants request a variance of 5.50 feet for the second story addition and 9.12 feet for the two-story rear addition.

The applicants indicate they have explored alternative designs which do not require a variance, but that those designs are not compatible with the surrounding neighborhood layout or compatible with the existing floor plan of the house.

There have been no variances or special exceptions previously granted for the subject property.

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 Seminary Hill Small Area Plan for residential land use.

V. **Requested variances**

Section 3-306(A)(2), Side Yard:

The R-8 zone requires a side yard setback of 8.00 feet or one-half the building height, whichever is greater. The proposed one-story addition is located 7.30 feet from the south side property line. The applicant requests a variance of .70 feet from the south side property line.

Section 3-306(A)(3), Rear Yard:

The R-8 zone requires a rear yard setback based on a building height ratio of 1:1 ratio with a minimum of 8.00 feet. The proposed rear two-story addition rises to a height of 19.62 feet to the mid-point of the gable roof and is located 10.50 feet from the rear property line. The applicant requests a variance of 9.12 feet for the new two-story addition.

Section 3-306(A)(3), Rear Yard:

The R-8 zone requires a rear yard setback based on a building height ratio of 1:1 ratio with a minimum of 8.00 feet. The proposed second story addition rises to a height of 20.50 feet to the eave line and is located 15.00 feet from the rear property line. The applicant requests a variance of 5.50 feet for the new second story addition.

VI. **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.

VII. Applicant's Justification for Hardship

The applicants state that the zoning ordinance places an unreasonable restriction for the subject property by imposing restrictive rear yard setbacks. The applicants also elaborate on the unique conditions of the lot which justifies a legal hardship.

- (1) The existing house is not centered on the lot and sits in the back right (south) corner of the lot. It was constructed this way by the original developer to maintain the visual flow of the cul-de-sac.
- (2) The lot is unique because it is the only interior lot in the immediate neighborhood that is wider than it is deep.
- (3) The subject property is unique because of its water problems. The topography of the lot is such that the east side yard is an established drainage swale for several properties behind the rear property line of the subject property.
- (4) R-8 zone setbacks do not allow the property to realize the maximum FAR allowed by the zone.

VIII. Staff Analysis

The property, although slightly irregular in shape at the front property line, does not have topographic constraints. In fact, this 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. A second story addition could be constructed that does not encroach into the required rear yard setback. Additionally, the rear yard two-story addition could be replaced with a smaller one-story addition in the east side yard where there is ample room for a reasonably sized addition with respect to the front, side and rear setbacks. The second story and two-story rear addition will alter the character of the immediate neighborhood that is predominantly characterized by modest 1 and 1 ½ story houses. 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:

- 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)
- 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 stormwater 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 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-3 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).

- C-4 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

- C-5 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-6 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-7 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-8 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.

- C-9 A soils report must be submitted with the building permit application.

C-10 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 will be 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.