

Docket Item #5
BZA CASE #2007-0040

Board of Zoning Appeals
February 14, 2008

ADDRESS: 5 WEST WINDSOR AVENUE
ZONE: R-5, RESIDENTIAL
APPLICANT: TIMOTHY C. & LISA R. WAGNER

ISSUE: Variance to construct a new single family dwelling 7.00 feet from the east and west side property lines.

| CODE SECTION | SUBJECT | CODE REQMT | APPLICANT PROPOSES | REQUESTED VARIANCE |
|--------------|------------------|------------|--------------------|--------------------|
| 3-406(A)(2) | Side Yard (East) | 8.16 ft* | 7.00 ft | 1.16 ft |
| | Side Yard (West) | 8.16 ft* | 7.00 ft | 1.16 ft |

*Based on a building height of 24.50 feet to the midpoint of the gable roof.

BOARD OF ZONING APPEALS ACTION OF FEBRUARY 14, 2008: On a motion to approve by Mr. Allen seconded by Mr. Hubbard, the variance was approved by a vote of 4 to 2. Messrs. Zander and Lantzy dissented.

Reason to approve: The height of the by-right option to develop the vacant property could be worse than the proposed dwelling, which requires a variance. The proposed dwelling is in character with the neighborhood and has support from neighbors. The variance requested is modest.

Dissenting Reason: The applicant did not demonstrate a legal hardship.

Speakers:

Timothy Wagner, owner, made the presentation.

Jane Kennedy, neighbor at 9 West Windsor Avenue, spoke in support.

BOARD OF ZONING APPEALS ACTION OF JANUARY 10, 2008: On a motion to defer by Mr. Hubbard, seconded by Mr. Allen, the variance was deferred by a vote of 5 to 0.

Reason:

To allow the application to be considered by a full Board.

Speakers:

Timothy Wagner, owner, made the presentation.

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 sketch here)

I. Issue

The applicants propose to build a new single-family dwelling on a vacant lot at 5 West Windsor Avenue.

II. Background

The subject property, one lot of record, has 50.00 feet of frontage facing West Windsor Avenue, a depth of 115.00 feet and contains 5,750 square feet of lot area. The subject lot complies with the minimum width and frontage for a single family dwelling zoned R-5, residential. An existing curb cut on West Windsor Avenue and driveway is located along the west side property line.

III. Description

The applicants propose to build a new single-family dwelling with a front covered open porch 26.00 feet from the front property line facing West Windsor Avenue, 7.00 feet from the east and west side property lines and 35.00 feet from the north rear property line. The proposed two-story dwelling is 36.00 feet wide and 41.50 feet in depth. The R-5 zone requires a minimum setback of 7.00 feet from both side property lines. Based on a building height of 24.50 feet from grade to the mid-point of the proposed gable end roofs, a side yard setback of 8.16 feet is required from the east and west side property lines. The overall height of the building is 28.00 feet, below the allowable 35.00 feet permitted in the R-5 zone. The proposed house will total approximately 2,546 square feet. Upon completion of the proposed dwelling, the property will comply with the allowable floor area (2,588 square feet), front and rear setbacks. The existing driveway will be used and modified to provide two off-street parking spaces for the new home.

Although the proposed house is slightly deeper in footprint than the adjoining property at 7 West Windsor Avenue it is comparable in footprint and building height with the majority of homes along the 100 block of West Windsor Avenue.

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

IV. Master Plan/Zoning

The subject property is zoned R-5, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Potomac West Small Area Plan for residential land use.

V. Requested Variances

Section 3-706 (A)(2), Required Side Yards

The R-5 zone requires each single family dwelling to maintain a minimum 7.00 feet from each side property line. The subject lot complies with the required lot frontage and lot area. Based upon the building height to the midpoint of the gable end roofs facing the east and west side yard property lines, an 8.16 feet side yard is required respectively from both side property lines. The applicants are proposing 7.00 feet setback from the east and

west side property lines. The applicants seek a variance of 1.16 feet from the east and west side property lines respectively.

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 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 applicant's state enforcement of the zoning ordinance will place an unreasonable restriction on the design options for the new house. The zoning ordinance should exist to protect the neighborhood and neighbors from property uses that would change the character of the neighborhood. By granting the variance the BZA will allow the use of a pitched roof that is lower in building height (28.00 feet) compared to a by-right building height of 35.00 feet if a pitched roof is employed. The proposed roof will have much less

impact on the neighborhood and allow for a building design that the applicants believe is more appropriate for the neighborhood.

VIII. Staff Analysis

Staff finds that the strict application of the zoning ordinance will not result in a legal hardship nor reasonable use of the property. It is possible for the applicants to reduce the width of the proposed building by 1.16 feet along the east and west building walls to accommodate the required side yard setbacks or to reduce the height of the proposed structure by 3.50 feet and/or revise the roof design to meet setback requirements.

A shallower roof style could effectively lower the building height for the new house which would be comparable to the character of the majority of homes along the 100 block of West Windsor Avenue as well comply with the 7.00 feet side yard requirement. Based on the submitted plans, the building height is currently 21.00 feet to the roof eave line. By eliminating the gable roof ends that project toward the side property lines, and leaving the roof ridges that are parallel to the side property lines and extend from the front gables facing the street, the proposed house will not require side yard variances. Alternatively, the proposed building could be reduced in size and placed 8.16 feet from the side property lines in compliance with the R-5 side yard requirements. The applicants' justification does not rise to the level of a legal hardship or unreasonable restriction on the use of the property.

Staff therefore **recommends denial** of the 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:

- R-1 A Plot Plan is required for the construction of a new single family home in the City of Alexandria. A copy of the approved Plot Plan must be attached to the building permit application. For questions regarding Plot Plan processing, call the Site Plan Coordinator at (703) 838 4318. (TES)

- 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.]. (TES)

- R-3 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (TES)

- R-4 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be City standard design. (TES)

- R-5 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. (TES)

- R-6 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2,500 square feet. (TES)

- R-7 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. (TES)

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 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-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 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-7 A soils report must be submitted with the building permit application.
- C-8 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 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.