

Docket Item #5
BZA CASE #2008-0002

Board of Zoning Appeals
May 8, 2008

ADDRESS: 110 EAST MAPLE STREET
ZONE: R-2-5, RESIDENTIAL
APPLICANT: ERIC & TERRA EIDINGER, OWNERS, BY WARREN ALMQUIST, ARCHITECT

ISSUE: Variance to construct a second story in line with the existing building located in the required east and west side yards

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A) (2)	Side Yard (East)	7.80 ft *	5.90 ft	1.90 ft
	Side Yard (West)	7.50 ft **	7.00 ft	0.50 ft

* Based on a building height of 23.50 feet to the mid point of the modified gable roof.

** Based on a building height of 22.50 feet to the mid point of the modified gable roof.

BOARD OF ZONING APPEALS ACTION OF MAY 8, 2008: On a motion to approve by Mr. Hubbard, seconded by Ms. Lewis, the variance was approved by a vote of 4 to 1. Mr. Zander dissented.

Reason to approve: The applicant demonstrated a hardship due to the substandard nature of the lot, the configuration of the existing house on the lot and the strict application of the zoning ordinance serves no useful purpose.

Dissenting Reason: No legal hardship was demonstrated.

Speakers:

Warren Almquist, architect, made the presentation.

Deferred prior to the March 13, 2008 hearing by applicant.

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BOARD OF ZONING APPEALS ACTION OF FEBRUARY 14, 2008: On a motion to defer by Mr. Allen seconded by Mr. Hubbard, the variance was deferred by a vote of 6 to 0.

Reason: To allow the applicant time to restudy the proposed porch.

Speakers:

Warren Almquist, architect and Eric Eiding, owner, made the presentation.

Wayne Patterson, neighbor at 112 East Maple Street, spoke in opposition.

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.

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(Insert sketch here)

I. Issue

The applicants propose to improve their house at 110 East Maple Street by (1) constructing a second story above the footprint of the existing one-story house, (2) build a new rear two-story addition and (3) replace an existing enclosed portico and open concrete stoop with new covered open portico facing East Maple Street.

Because the existing building is being enlarged with a second floor over the existing building footprint, the increase in building height will result in the construction not complying with the required east and west side yards. The applicants must seek a variance from both side yards based on the new building height. The new rear two-story addition complies with the east and west side yards based on its building height and because the structure is set a greater distance from the east and west side property lines.

The new replacement covered open portico complies with the zoning regulations that allow a front covered open portico does not project more than 6.00 feet from the front building wall into the required front yard facing East Maple Street and is not more than 9.00 feet in width across the front building wall. The new portico projects 3.00 feet from the front building wall. The new portico complies with the required east and west side yards.

II. Background

The subject property is one lot of record with 40.00 feet of frontage facing East Maple Street, a depth of 110.00 feet, and totals 4,400 square feet in area. The subject lot is substandard for an R-2-5 zone interior lot where the minimum lot size is 5,000 square feet.

The existing one story frame dwelling is located 25.80 feet from the front property line facing East Maple Street, 5.90 feet from the east side property line, 7.00 feet from the west side property line and approximately 50.00 feet from rear property line. Real estate assessment records indicate the house was constructed in 1920.

As indicated on the submitted plat, the existing house is built within the required east side yard. The existing house complies with the required front yard; west side yard and rear yard setback.

III. Description

The applicants propose to construct the following:

- (a) Build a second story above the footprint of the existing house. The new second floor will enlarge the house, now at 797 net square feet, to 1,950 net square feet (adding 1,153 square feet). The zoning regulations allow the applicants to build 1,980 net square feet. The new second story will align with the existing building walls.

The new second-story measures approximately 36.00 feet by 39.00 feet. The new two-story house will be a gable end style roof and will measure 22.50 feet from grade to the mid point of the gable roof facing the west side property line and 23.50 feet in height to the mid point of the gable roof facing east side property line. The proposed second floor will accommodate a master bedroom, a smaller front bedroom, sitting area, 2 bathrooms and closets. The new second floor will be located 5.90 feet from the east side property line and 7.00 feet from the west side property line;

- (b) Build a two-story rear addition measuring 10.00 feet by 19.00 feet and totals approximately 380 square feet. The new addition with a hip roof will measure 20.50 feet in height from grade to the roof eave line facing the east and west side property lines. The new addition will comply with the required side yards: 11.00 feet from the west side property line and 7.00 feet from the east side property line; and,
- (c) Replace the existing front covered entry with a new covered open portico that measures 3.00 feet by 9.00 feet and is located 16.80 feet from the front property line facing East Maple Street. The new open portico is permitted under the zoning regulations as long as it does not project more than 6.00 feet from the building wall in the required front yard and is not more than 9.00 feet in width across the building face.

There have been no prior variances or special exceptions requested or approved for the subject property.

IV. Master Plan/Zoning

The subject property is zoned R-2-5 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 3-506(A)(2), Side Yard: The proposed second floor above the existing building footprint will continue to be located 5.90 feet from the east side property line and 7.00 feet from the west side property line. Based on the increase in building height, the new second-story is required to meet a 7.80 feet east side yard setback and 7.50 feet west side yard setback. The applicants request variances of 1.90 feet and .50 feet respectively.

VI. Noncomplying structure

The existing building at 110 East Maple Street is a noncomplying structure with respect to the following:

	<u>Requirement</u>	<u>Existing</u>	<u>Noncompliance</u>
Side Yard (East)	7.00 ft	5.90 ft	1.10 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 applicants state the zoning ordinance does not amount to confiscation of their property, but state that strict enforcement of the zoning regulations will force them to build to the rear resulting in an unsightly addition and poor solution to meet their needs. A rear addition will cause difficult interior circulation within the house and will reduce

the rear yard into an awkward, unusable space. A variance will allow for a reasonable two-story addition to be placed on the lot. The existing house is relatively small to accommodate a family. Strict enforcement of the zoning regulations could create a building mass and scale unlike other properties in the original subdivision.

IX. Staff Analysis

The property is currently substandard in lot area. The existing house was built complying with all of the R-2-5 zone regulations except the east side yard. The subject property is similar to other lots within the immediate block in terms of lot area and building area to the subject property. Strict application of the zoning regulations will not result in the inability of the applicants to build in compliance with the zoning ordinance. It is possible to construct a second floor with an alternative roof plan that sets the second floor back from the first floor footprint in compliance with the side yard requirements. A more elaborate building construction may result. The applicants could also construct a rear addition that would meet the zoning ordinance and revise their interior layout and wall partitions to address their circulation concerns.

Staff cannot find the requisite justification for hardship and therefore recommends **denial** 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 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)

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- 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 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 details 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.

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- 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 trees are affected by this plan.

Historic Alexandria (Archaeology):

- F-1 Civil War period maps show structures in the vicinity of this property, but the exact locations are not known. The lot therefore has low potential to yield archaeological resources that could provide insight into domestic, and perhaps agricultural, activities on the outskirts of town in the 19th century.
- 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 archaeology conditions above marked with an asterisk (*) 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.

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.