

Docket Item #6  
BZA CASE #2008-0009

Board of Zoning Appeals  
May 8, 2008

**ADDRESS:** 412 E. ALEXANDRIA AVENUE  
**ZONE:** R-2-5, RESIDENTIAL  
**APPLICANT:** PAULO DE OLIVEIRA, OWNER

**ISSUE:** Variance to construct a detached two-car garage in the required side yard.

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CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard (East)	7.00 ft	1.00 ft	6.00 ft

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**BOARD OF ZONING APPEALS ACTION OF APRIL 10, 2008:** On a motion to defer by Mr. Goodale, seconded by Mr. Allen the variance was deferred by a vote of 6 to 1. Mr. Lantzy dissented.

Reason to defer: To allow time for potential changes in the zoning ordinance relating to detached garages to be made and to allow the applicant time to consider alternative designs, including, but not limited to reducing the size of the garage.

Dissenting reason: The applicant failed to demonstrate legal hardship.

Speakers:

Paulo De Oliveira, owner, made the presentation.

Staff **recommends denial** of the request because the applicant has 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 applicant proposes to build a modern detached two-car garage for the property at 412 East Alexandria Avenue. The proposed garage will be placed within 1.00 feet of the required east side yard. The new garage is designed to match similar detached garages both in mass and building height as other garages within the neighborhood. The placement of the new garage is intended to preserve open space and maintain an open back yard for the residence.

**II. Background**

The subject property is two lots of record with 50.00 feet of frontage facing East Alexandria Avenue and a depth of 127.64 feet. The property abuts a public alley along the north rear property line. The property contains a total of 6,400 square feet. The subject property is not substandard in lot area. The minimum lot area required for an R-5 zoned lot is 5,000 square feet.

The property is developed with a recently renovated two-story single family dwelling with a open front porch and side and rear decks located 10.00 feet from the front property line facing East Alexandria Avenue, 7.60 feet from the west side property line and 9.90 feet from the east side property line. A public alley 10.00 feet wide abuts the property on the north. Real Estate Assessment records indicate the applicant purchased the property in 1998. The applicant also owns the abutting property to the east.

Sanborn maps indicate a one car detached garage was previously located on the rear property line and approximately one foot from the east side property line. At the time the applicant purchased the property the garage had been removed. The applicant has finished renovating the existing house.

**III. Description**

The proposed detached two-car garage measures 24.66 feet by 20.66 feet by 16.00 feet to the top of the roof. The garage is located 1.00 feet from the east side property line and 4.00 feet from the rear property line.

The proposed garage does not meet the R-2-5 zone regulations as to the required setback of 7.00 feet from the east side property line. The new garage does comply with the rear yard setback. The zoning ordinance allows a property that abuts a rear alley to apply half of the alley width towards the rear yard setback. In this instance, the abutting alley 10.00 feet wide of which 5.00 feet of the alley is applied to the rear yard setback. The new garage will be placed 8.00 feet from the rear property line. By including 5.00 feet of the abutting alley a total of 13.00 feet of rear setback is provided. The new garage height to the mid-point of the gable end roof is approximately 13.00 feet. The required rear yard

setback has been met. The applicant is seeking only a variance from the side yard requirement.

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

**IV. Master Plan/Zoning**

The subject property is zoned R-2-5, residential and has been so zoned since 1951, and is identified in the Potomac West Area Plan for residential land use.

**V. Requested Variances**

**Section 3-506(A)(2), Side Yard (East):**

The R-2-5 zone requires a detached garage to provide two side yards of 7.00 feet. The proposed garage will be located 1.00 feet from the east side property line. A side yard setback of 7.00 setback is required. The applicant requests a variance of 6.00 feet from the east side property line.

**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 applicant's justification for hardship is that the zoning rules create an unreasonable restriction on the use of the property in order to build a modern garage that matches the architecture and materials used on the main house. The proposed garage is consistent with other similar garages built in the Del Ray area.

**VIII. Staff Analysis**

The reasons set forth by the applicant for hardship do not warrant granting a variance. The applicant can build a two-car garage in compliance with the side yard setback of 7.00 feet and still be 19.00 feet away from the other side yard. Alternatively, rather than construct a two-car garage, a modern one car garage can be built in compliance with the side yard requirement without impacting much of the back yard. A one car garage was previously built on the property

The subject property has no unusual lot characteristics (it is flat with no topographic condition that will prohibit the use of the lot). The lot is not substandard and is in fact slightly larger than the minimum lot size requirement of 5,000 square feet. There are no large trees that would affect the placement of the garage. Other properties within the neighborhood are similar in size and lot configuration. The subject property has similar characteristics to other neighboring properties and those properties have one-car garages.

The applicant has not made a case for hardship, which is a prerequisite for granting a variance

Staff 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:

R-1 An approved Grading Plan must be attached to the building permit application. The Grading Plan is required because the submitted documentation indicates that the proposed project will impact existing drainage patterns and may result in changes to existing grades of 1-foot or greater. If the applicant is able to demonstrate, to the satisfaction of the Director of Transportation & Environmental Services, that the project will not cause changes to existing drainage patterns or changes in elevations of 1-foot or greater, then this requirement may be waived.

In general, a Plot Plan is required when construction of a 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. (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)

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- 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 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-4 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-5 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-6 All exterior walls within 5 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides, with no openings permitted within the wall. As an alternative, a 2 hour fire wall may be provided.

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- C-7 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- 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.