

Docket Item #6
BZA CASE #2008-0042

Board of Zoning Appeals
February 12, 2008

ADDRESS: 26 EAST OAK STREET
ZONE: R-2-5, RESIDENTIAL
APPLICANT: BRIAN AND MEGAN BALKOVIC, OWNERS

ISSUE: Variance to construct a detached garage with second floor storage in the required north and west side yards

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard (North)	7.00 ft	2.10 ft	4.90 ft
3-506(A)(2)	Side Yard (West)	7.00 ft	2.10 ft	4.90 ft

BOARD OF ZONING APPEALS ACTION OF FEBRUARY 12, 2009: On a motion to approve by Mr. Goodale, seconded by Mr. Hubbard the variance was approved by a vote of 7 to 0.

Reason: The applicant demonstrated a hardship due to the substandard lot size and the location of the existing curb cut and utility pole.

Speakers:

Brian Balkovic, owner, made the presentation.

Staff **recommends denial** of the request because the applicants have not demonstrated a hardship.

If the Board decides to grant the requested variance they must comply with the code requirements under the department comments and the applicant must submit the following prior to the release of a Certificate of Occupancy: (1) a survey plat prepared by a licensed surveyor confirming building footprint, setbacks, and building height compliance from average preconstruction grade and (2) certification of floor area from a licensed architect or engineer.

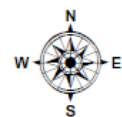
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The variance must also be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.



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2/12/2009



I. Issue

The applicants propose to build a detached two-car garage for the property at 26 East Oak Street. The proposed garage will be placed within 2.10 feet of the required north and west side yards. The new garage is designed to match similar detached garages both in mass and building height within the neighborhood. The placement of the new garage is to preserve open space and maintain an open back yard for the residence.

II. Background

The subject property, a corner lot, is one lot of record with 50.00 feet of frontage facing East Oak Street, 123.00 feet of frontage facing Wayne Street, and a lot area totaling 6,150 square feet. The subject property is a substandard lot. The minimum lot area required for an R-2-5 zoned corner lot is 6,500 square feet.

The property is developed with a recently renovated two-story single family dwelling with a open front porch and a rear deck located 25.00 feet from the front property line facing East Oak Street and 23.90 feet from the east front property line facing Wayne Street. Real Estate Assessment records indicate the home was built in 1925

III. Description

The proposed detached two-story two-car garage measures 22.00 feet by 26.00 feet by 23.20 feet in height to the top of the roof. The garage is located 2.10 feet from the north side property line and 2.10 feet from the west side property line. The garage structure will include a second floor used for storage. The roof line is intended to match the main building.

The proposed garage does not meet the R-2-5 zone regulations as to the required setback of 7.00 feet from the north side property line and 7.00 feet from the west side property line. The new garage height to the mid-point of the gable end roof is approximately 17.30 feet. The applicants are seeking variances from the side yard requirements.

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 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 (East):

The R-2-5 zone requires a detached garage to provide two side yards of a minimum of 7.00 feet. The proposed garage will be located 2.10 feet from the north side property line and 2.10 feet from the west side property line. Based on the building height of 11.00 feet to the eave line of the roof facing the north side property line and 17.30 feet to the mid point of the gable end facing the west side yard property line required side yards of 7.00

feet are required respectively. The applicants request a variance of 4.90 feet from the north side property line and west 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 applicants' justification for hardship is that the zoning rules create an unreasonable restriction on the use of the property by creating an aesthetically unpleasing structure. Placement of a two-car garage in compliance with the zoning regulations will result in the structure placed in the middle of the yard, disrupting light and line of sight to neighboring

property. The proposed garage is consistent with other similar garages built in the Del Ray area.

VIII. Staff Analysis

The applicants' justification for hardship does not rise to the level to grant a variance. The applicants can build a two-car garage in compliance with the side yards setback of 7.00 feet. Alternatively, rather than construct a two-car garage, a one-story one-car garage can be built without a variance to within 3.00 feet with windows facing the property lines or 1.00 feet without windows.

The subject property has no unusual lot characteristics (it is flat with no topographic condition that will prohibit the use of the lot). Although the lot is substandard there are no unusual or extraordinary conditions that restrict the use of the property. 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 accessory garages one story in height. The proposed garage is too tall and as shown on the applicants' survey, the footprint of the garage is not subordinate in size or mass to the existing building.

The applicants have 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 drawings indicate that the land disturbance associated with this project will be in excess of 2,500 square feet.

In summary, City Code Section 8-1-22(d) requires that a grading plan be submitted to and approved by T&ES prior to the issuance of building permits for improvements involving:

- the construction of a new home;
- construction of an addition to an existing home where either
 - the addition exceeds the area of the existing building footprint by 100% or more; or
 - the construction of the addition results in less than 50% of the existing first floor exterior walls, in their entirety, remaining;
- changes to existing grade elevation of 1-foot or greater;
- changes to existing drainage patterns;
- land disturbance of 2,500 square feet or greater.

Questions regarding the processing of grading plans should be directed to the T&ES Site Plan Coordinator at (703) 838-4318. Memorandum to Industry No. 02-08 was issued on April 28, 2008 and can be viewed online via the following link. **<http://alexandriava.gov/uploadedFiles/tes/info/gradingPlanRequirements.pdf>**

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 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-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. (T&ES)
- 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. (T&ES)

Code Administration:

- C-1 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-2 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-3 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-4 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.
- C-6 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-7 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 alternative, a 2 hour fire wall may be provided. (USBC 704.5)

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.