

Docket Item # 5  
BZA CASE #2009-0015

Board of Zoning Appeals  
July 9, 2009

**ADDRESS:** 320 E. DELRAY AVENUE  
**ZONE:** R-2-5, RESIDENTIAL  
**APPLICANT:** THOMAS AND JUDITH PARKINS, OWNERS

**ISSUE:** Variance to construct a one and one-half story addition in the required west side yard setback.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard (West)	7.00 ft	4.00 f t	3.00 ft

Based on a building height of 16.00 feet to the mid-point of the gable roof.

The applicant withdrew this application.

**BOARD OF ZONING APPEALS ACTION OF JULY 9, 2009:** On a motion to defer by Mr. Allen, seconded by Ms. Lewis, the variance was deferred by a vote of 5 to 0.

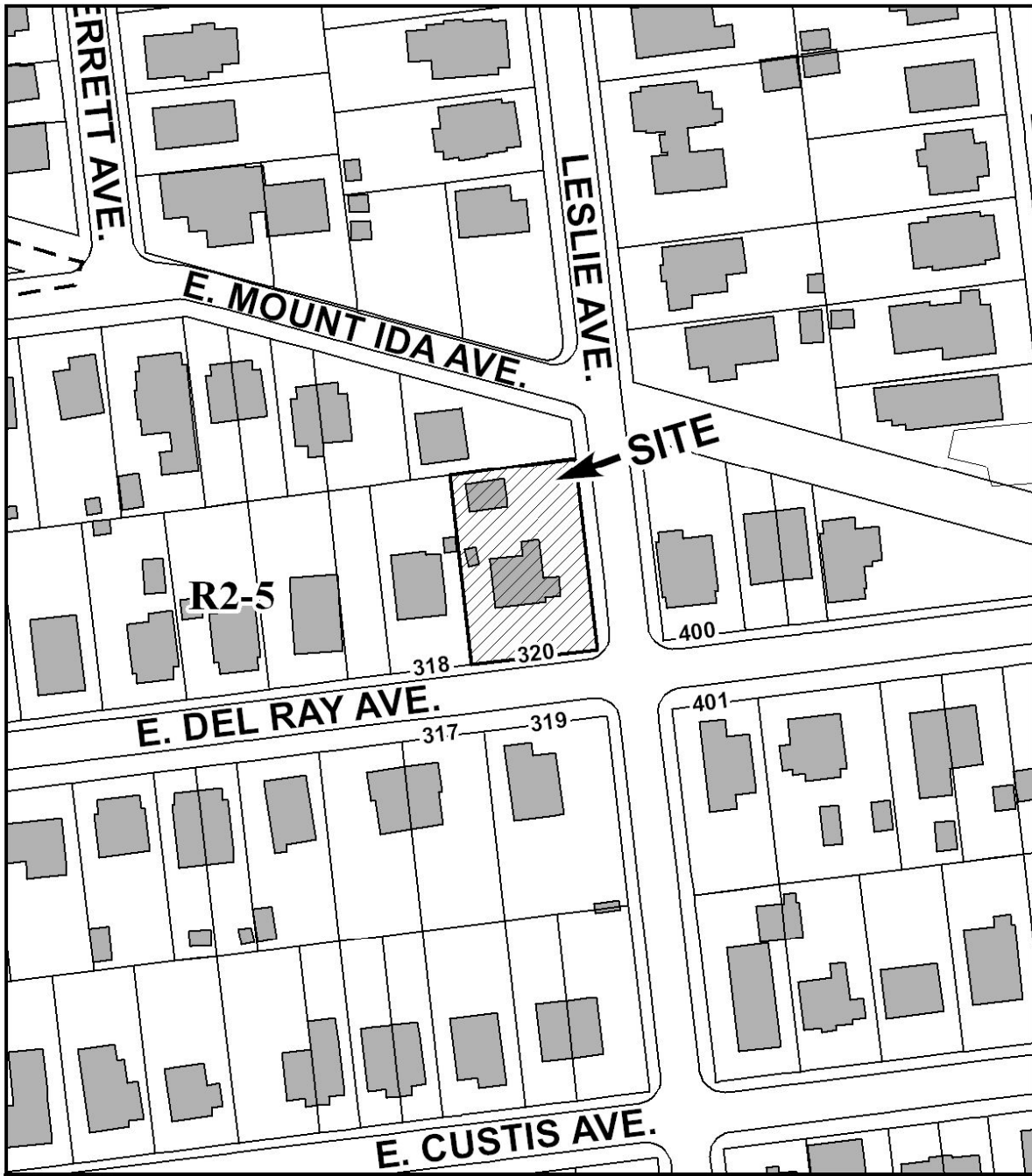
Reason to Defer: To allow the applicant time to explore design alternatives.

Speakers:

Thomas Parkins, 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 it 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. 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.



**BZA #2009-0015**

**07/09/09**



**I. Issue**

The applicants propose to construct a one and one-half story addition on the side of the existing dwelling at 320 East Del Ray Avenue in the required west side yard.

**II. Background**

The subject property, a corner lot, is comprised of three lots of record with 75.00 feet of frontage facing East Del Ray Avenue, 115.00 feet of frontage facing Leslie Avenue, a depth of 115.00 feet along the west side property line and 75.00 feet along the north side property line. The subject property contains 8,625 square feet of lot area. The property is complying as to the minimum lot area, width and frontages for a corner lot in the R-2-5 zone.

The lot is developed with a one and one-half story single family dwelling located 30.60 feet from the front property line facing East Del Ray Avenue, 20.20 feet from the front property line facing Leslie Avenue, 49.00 feet from the north side property line and 18.00 feet from the west side property line.

**III. Description**

The applicants propose to construct a one and one-half story addition on the side of the existing dwelling 31.00 feet from the front property line facing East Del Ray Avenue, 4.00 feet from the west side property line and 55.00 feet from the north side property line. The proposed addition will measure 13.00 feet by 26.00 feet with a 2.00 feet by 8.50 feet bay window projection on the first floor totaling 355square feet. On the second floor the addition will measure 13.00 feet by 26.00 feet, totaling 338 square feet on the second floor. The addition will measure 16.00 feet in height to the midpoint of the roof gable facing the south side yard. A side yard setback of 7.00 feet is required. The applicants request a variance of 3.00 feet to construct the addition 4.00 feet from the west side property line.

The Board of Architectural Review staff state the one and one-half story Colonial Revival house is with the boundaries of the Town of Potomac Register Historic District. Constructed in 1936, it is listed as a contributing resource to the district.

The applicant's proposal is for a variance to construct an addition four feet from the south side property line. The proposed addition will be located to the left side of the existing house and will mimic its one-and one-half story form. The addition will have one window on the front elevation and a bay window on the rear. While it's generally recommended that additions occur to the rear of the historic houses, there are design approaches to allow for side additions that do not compromise the integrity of the house. The drawings show a differentiation between the addition and the original house, with a roof of the addition being shorter and the block being inset from the face of the main house. This treatment is recommended to allow the addition to be perceived as a later evolution to the historic house. While the materials are not called out on the drawings,

the exterior building material appears to be a wood or similar siding, complimenting the original siding.

In BAR staff's opinion, the proposed addition is appropriate and compatible to the main historic house in mass, scale, height and architectural expression, and does not negatively impact its contributing status to the Town of Potomac National Register Historic District.

Upon completion of the work, the proposed renovations will continue to comply with the floor area requirements. (Refer to floor area calculations.)

On December 8, 1994, the Board of Zoning Appeals approved BZA Case #94-00045, a request to allow approximately 30.00 feet of a 6.00 feet high existing wood fence to remain within the vision clearance setback of Leslie and East Del Ray Avenue.

**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 low land use.

**V. Requested Variance**

Section 3-506(A)(2) Side Yard Setback (West)

The applicants request a variance of 3.00 feet from the required 7.00 feet (based on a building height of 16.00 feet to the midpoint of the gable roof) to construct a one and one-half story addition 4.00 feet from the 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**

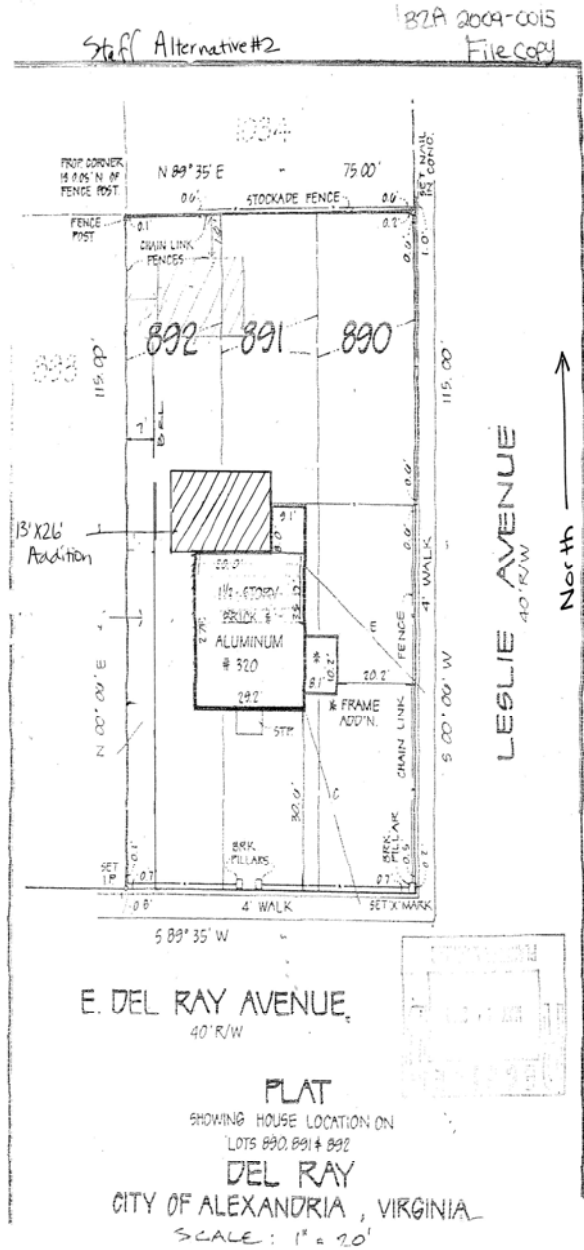
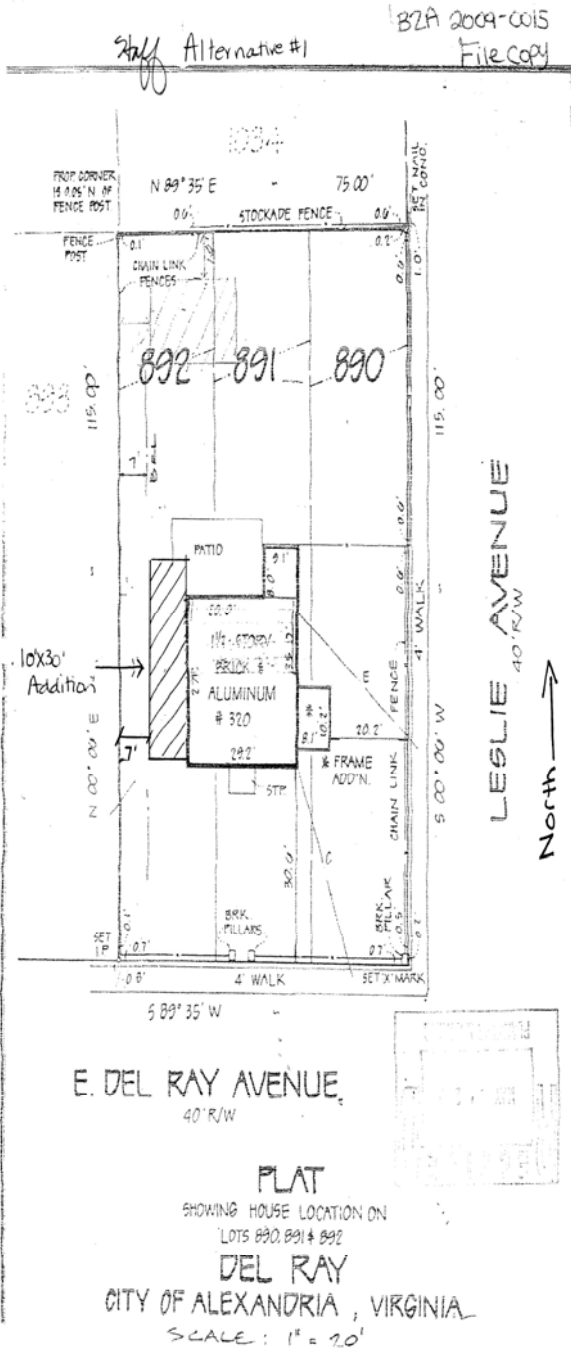
The application states that the requirement to maintain two front yard setbacks creates a hardship. The existing landscaping behind the dwelling, which includes trees and shrubs, prevents the applicant from being able to construct the addition at the rear of the home.

**VIII. Staff Analysis**

While staff understands that the requirement to maintain two front yard does present difficulties for the applicant, all corner lots have this requirement and it does not prohibit construction on the property. The subject property is 2,125 square feet larger in lot area than the minimum required in the R-2-5 zone for a corner lot.

Although the BAR have stated the proposed addition is appropriate and compatible with the main historic house, in terms of mass, scale, height, and architectural expression, and does not negatively impact its contributing status within the Town Potomac, staff believes that the applicants have at least two alternatives to construct a similarly sized addition without the need for a variance. 1)The applicants could construct a deeper and 3.00 foot narrower addition in compliance with the minimum 7.00 foot setback requirement or 2) construct a similarly sized addition on the rear of the property in compliance with all applicable setbacks.

Because of the reasonable alternatives above and the lack of a unique hardship on the property, staff **recommends denial** of the requested variance.



Two Staff Alternatives

**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 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)
- F-1 An approved grading plan may be required at the time of building permit application. Insufficient information has been provided to make that determination at this time. 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>

Code Administration:

- C-1 All exterior walls within 5 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides of the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to skylights within setback distance. Openings in exterior walls between 3 and 5 feet shall not exceed 25% of the area of the entire wall surface (This shall include bay windows). Openings shall not be permitted in exterior walls within 3 feet of an interior lot line.
- C-2 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-3 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-4 A soils report must be submitted with the building permit application.
- C-5 Additions and Alterations to the existing structure must comply with the 2006 edition of the Uniform Statewide Building Code (USBC).
- C-6 Additions and 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-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.

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 2 mature trees will be affected by this plan:

- 1 Black Cherry
- 1 Mulberry

These trees are not specimen trees.

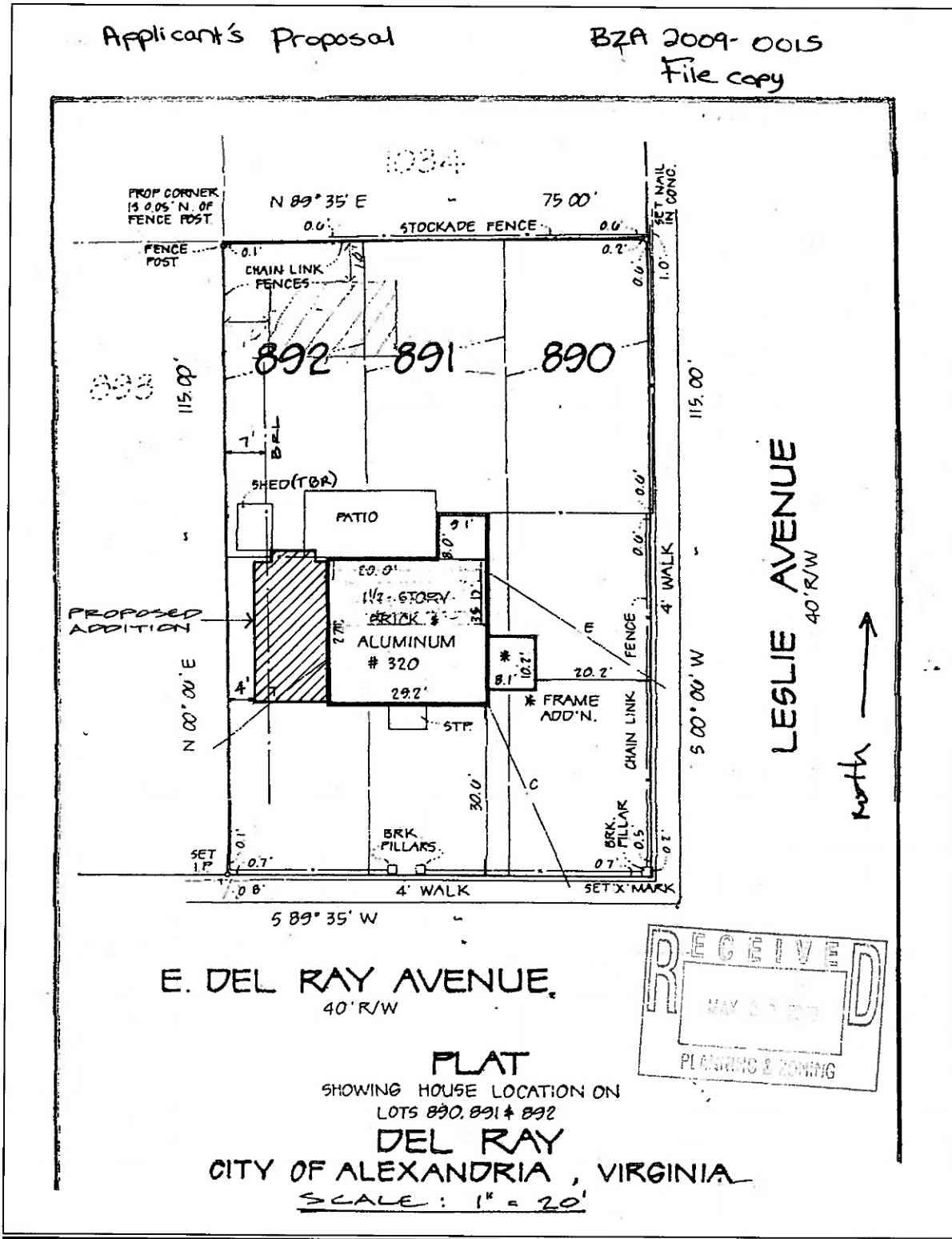
Historic Alexandria (Archaeology):

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.

IX. IMAGES





**APPLICATION  
BOARD OF ZONING APPEALS**

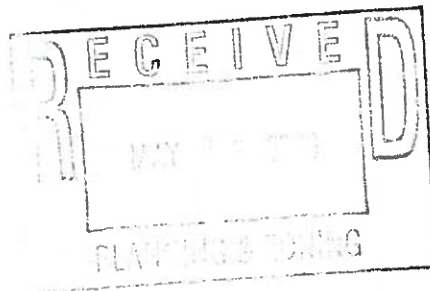
**VARIANCE**

**BZA CASE #** 2009-0015

Section of zoning ordinance from which request for variance is made:

**PART A**

1. **Applicant:**  Owner  Contract Purchaser  
 Name Thomas M. & Judith K. Parkins  
 Address 320 E. Del Ray Ave.  
Alex, VA 22301 Daytime Phone 703-838-4050
  
2. **Property Location** 320 E. Del Ray Ave. 22301
  
3. **Assessment Map** <sup>Deed book</sup> 0-4 Block E. Del Ray Lot 892, 891, 890 Zone R-2-5  
<sub>Page 404</sub>
  
4. **Legal Property Owner:**  
 Name Judith K. Parkins (Parkins)  
 Address 320 E. Del Ray Ave. 22301



5. Describe request briefly :

(Addition of ground floor bedroom, bath + closet and 2nd floor bathroom.)

Variance for a side yard setback of 4' to allow construction of ground floor bedroom + bath and 2nd floor bathroom.

6. If property owner or applicant is being represented by an authorized agent, such as an attorney, realtor or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?


[ ] Yes — Provide proof of current City business license.

No — Said agent shall be required to obtain a business prior to filing application.

**THE UNDERSIGNED HEREBY ATTESTS** that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned also hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

**APPLICANT OR AUTHORIZED AGENT:**

Thomas M. Parkins  
print name

  
signature

707 838-4050  
telephone

5-25-09  
date

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.



**PART B (SECTION 11-1102)**

**NOTE:** The Board of Zoning Appeals may grant a variance only if the applicant can demonstrate a legal hardship. A legal hardship refers to the shape and topographical conditions, or to some other unique characteristic of the property; for example, if a rear yard has a sharp drop-off or hilly terrain where an addition could otherwise be located legally, or if the property has three front yards.

A legal hardship is NOT, for example, having a large family in a two-bedroom house, or that you need a first-floor bedroom and bath. (These are good personal reasons for a variance, but do not constitute a legal hardship having to do with specific conditions of the land.)

**APPLICANT MUST EXPLAIN THE FOLLOWING:**

(please **print clearly** and use additional paper where necessary)

**1. Does strict application of the zoning ordinance to the subject property result in a hardship to the property owner? (Answer A or B)**

A. Will enforcement of the zoning ordinance amount to a confiscation of the property? Explain:

Because this is a corner lot building on the Leslie side is not feasible due to setback.

Building on at rear would destroy existing landscaping including trees and shrubs.

B. Will enforcement of the zoning ordinance prevent reasonable use of the property? Explain:

Yes. Without a variance we cannot build a reasonably sized, accessible, ground floor bedroom and bathroom.

2. Is this hardship unique to the property?

A. Is the hardship shared by other properties in the neighborhood? Explain:

see B ↓

B. Does the situation or condition of the property (on which his application is based) apply generally to the other properties in the same zone? Explain:

yes, irregular configurations (some places are close to the street/lot line, others are not)

3. Was the hardship caused by the applicant?

A. Did the condition exist when the property was purchased?

yes

B. Did the applicant apply the property without knowing of the hardship?

We didn't foresee it

C. How was the condition which creates the hardship first created?

Lot size, corner lot, and position of house

D. Did the applicant create the hardship and, if so, how was it created?

To some degree, yes. We did extensive landscaping several years ago and ~~we~~ didn't anticipate the need for a downstairs bedroom as we age.

in an area we might have built

4. Will the variance, if granted, be harmful to others?

A. Will the applicant's proposal be harmful in any way to any adjacent property?  
no

B. Will it harm the value of adjacent and nearby properties?  
no

C. Has the applicant shown the proposed pains to the adjacent most affected property owner? Has that neighbor objected to the proposed variance, or has the neighbor written a letter in support of the proposed variance? If so, please attach the letter.

No, they have been out of the country since our plans came back. Will be home next week.

D. Will it change the character of the neighborhood?  
No

5. Is there any other administrative or procedural remedy to relieve the hardship?

None that we know of.

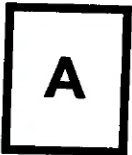
**PART C**

1. Have alternate plans or solutions been considered so that a variance would not be needed? Please explain each alternative and why it is unsatisfactory.

~~Adding a porch to the house  
which would be a setback  
of 10 feet to the street  
require removal of~~

We considered building on the East side of the house but because of corner setback requirements, we can't.

We considered building on the north side of the house but it would harm extensive landscaping done several years ago.



## DEPARTMENT OF PLANNING AND ZONING FLOOR AREA RATIO AND OPEN SPACE CALCULATIONS FOR SINGLE AND TWO-FAMILY RESIDENTIAL OUTSIDE HISTORIC DISTRICTS

### A. Property Information

A1. Street Address 320 E. Del Ray Ave Zone R-2-5  
 A2. \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
Total Lot Area Floor Area Ratio Allowed by Zone Maximum Allowable Floor Area

### B. Existing Gross Floor Area

Existing Gross Area *		Allowable Exclusions	
Basement	0	Basement**	
First Floor	1,197.86	Stairways**	
Second Floor	998.93	Mechanical**	
Third Floor		Porch/ Garage**	
Porches/ Other	276	Attic less than 5'***	
<b>Total Gross *</b>	<b>2472.79</b>	<b>Total Exclusions</b>	

B1. Existing Gross Floor Area \*  
2472.79 Sq. Ft.  
 B2. Allowable Floor Exclusions\*\*  
 \_\_\_\_\_ Sq. Ft.  
 B3. Existing Floor Area minus  
 Exclusions \_\_\_\_\_ Sq. Ft.  
 (subtract B2 from B1)

*Includes Utility Room  
 (burner, water heater)*

### C. Proposed Gross Floor Area (does not include existing area)

Proposed Gross Area*		Allowable Exclusions	
Basement	0	Basement**	
First Floor	355	Stairways**	
Second Floor	338	Mechanical**	
Third Floor		Porch/ Garage**	
Porches/ Other		Attic less than 5'***	
<b>Total Gross *</b>	<b>693</b>	<b>Total Exclusions</b>	

C1. Proposed Gross Floor Area \*  
460 Sq. Ft.  
 C2. Allowable Floor Exclusions\*\*  
 \_\_\_\_\_ Sq. Ft.  
 C3. Proposed Floor Area minus  
 Exclusions 460 Sq. Ft.  
 (subtract C2 from C1)

### D. Existing + Proposed Floor Area

D1. Total Floor Area (add B3 and C3) 2165.79 Sq. Ft.  
 D2. Total Floor Area Allowed by Zone (A2) 3887.25 Sq. Ft.

\*Gross floor area for residential single and two-family dwellings in the R-20, R-12, R-8, R-5, R-2-5, RB and RA zones (not including properties located within a Historic District) is the sum of all areas under roof on a lot, measured from exterior walls.

\*\*Refer to the zoning ordinance (Section 2-145(A)) and consult with zoning staff for information regarding allowable exclusions. If taking exclusions other than basements, floor plans with excluded areas illustrated must be submitted for review. Sections may also be required for some exclusions.

### F. Open Space Calculations Required in RA & RB zones

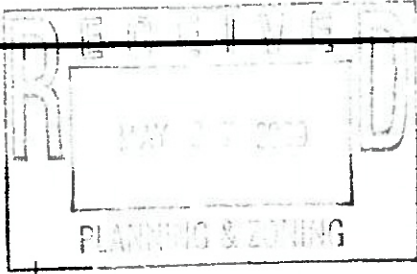
Existing Open Space	
Required Open Space	
Proposed Open Space	

The undersigned hereby certifies and attests that, to the best of his/her knowledge, the above computations are true and correct.

Signature: \_\_\_\_\_

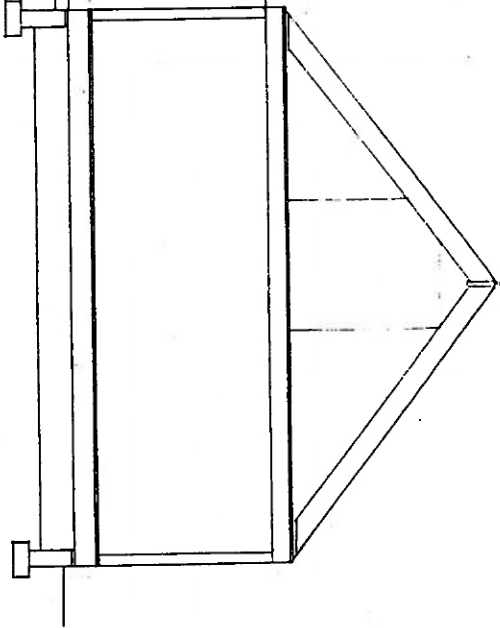
Date: 6-16-09



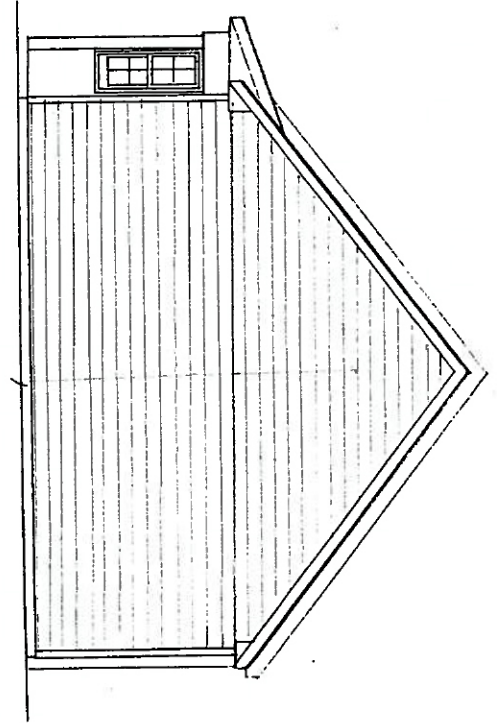


*Handwritten signature*

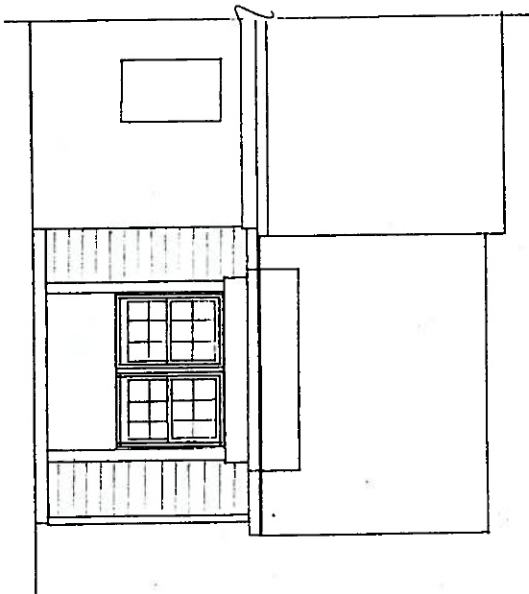
CROSS SECTION  
1/4" = 1'-0"



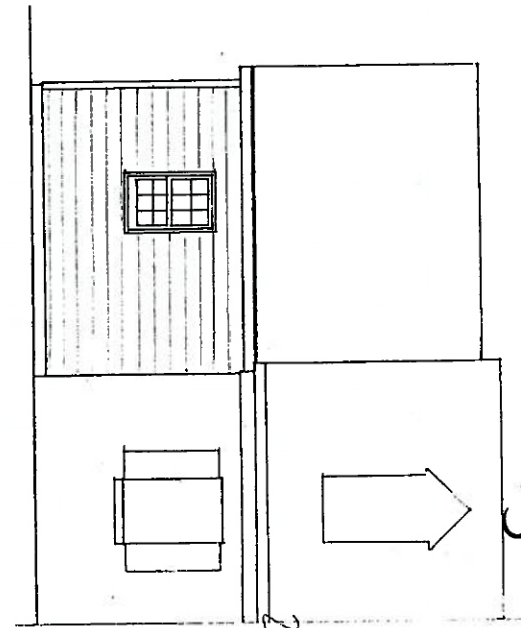
SIDE ELEVATION  
1/4" = 1'-0"



REAR ELEVATION  
1/4" = 1'-0"

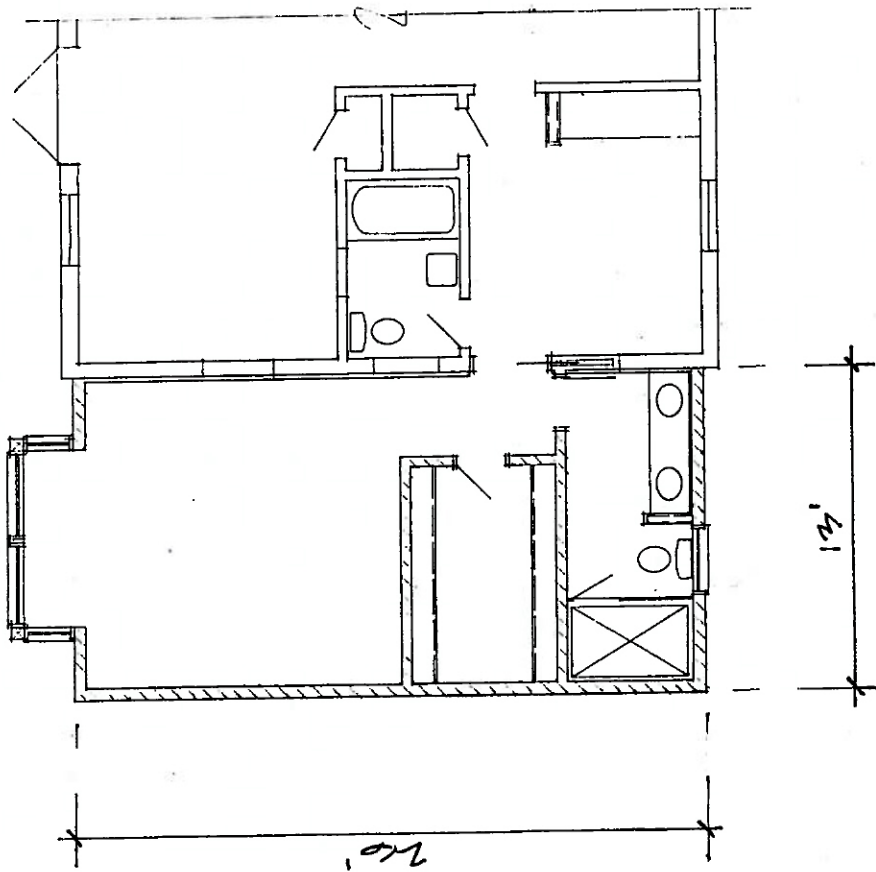


FRONT ELEVATION  
1/4" = 1'-0"

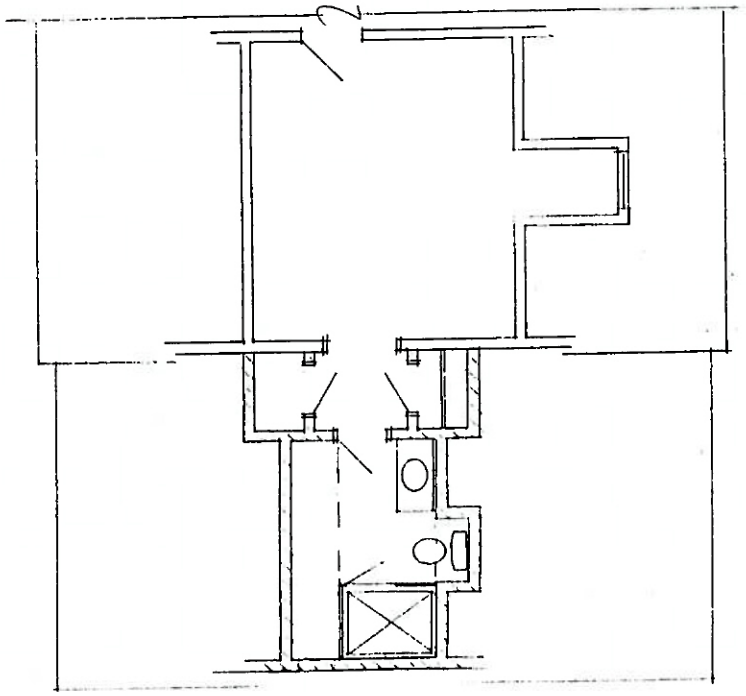


ADDITION TO PARKINS RESIDENCE  
320 E. DEL RAY AVENUE  
ALEXANDRIA VIRGINIA

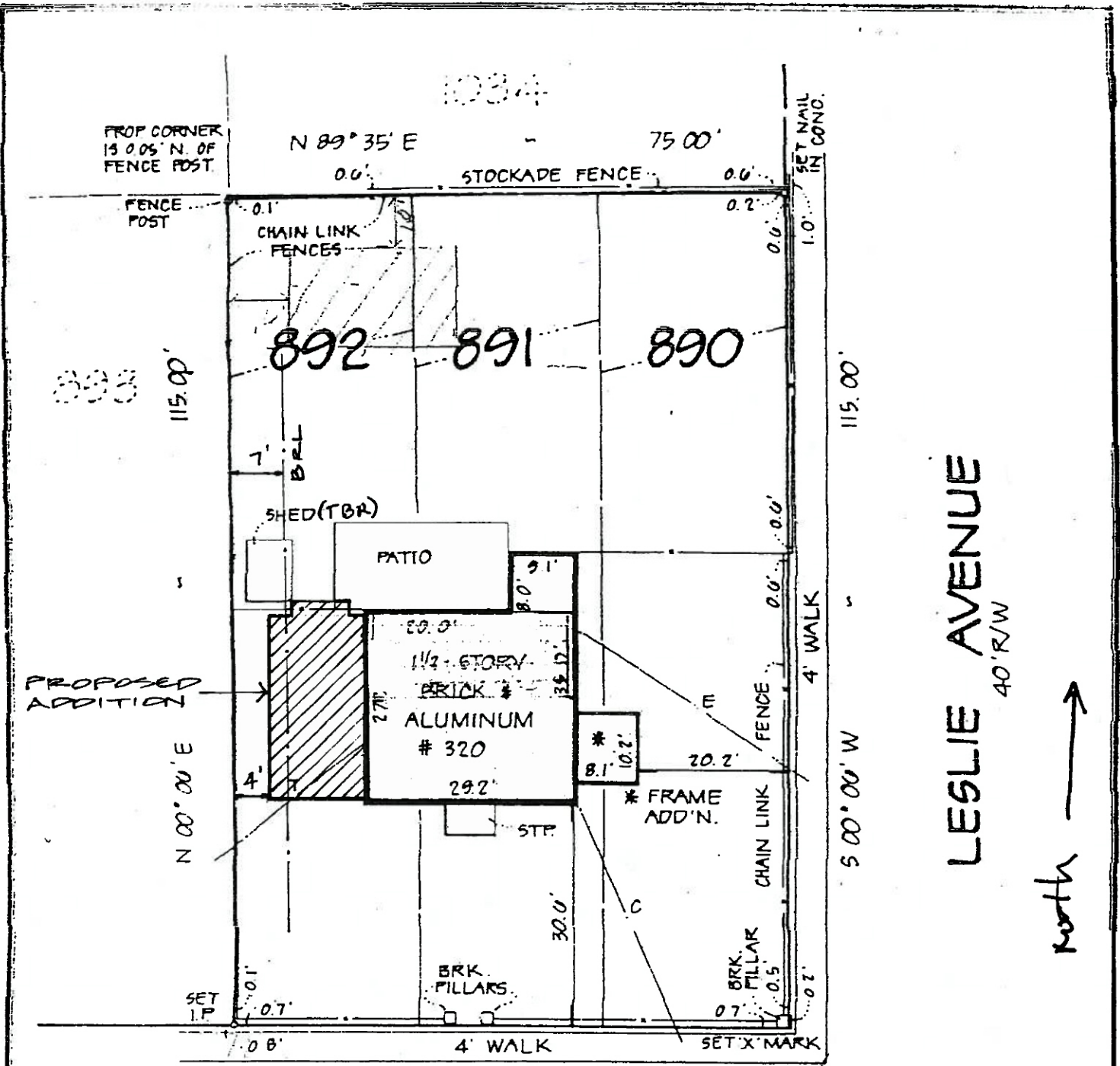
WILLIAM BOYD ARCHITECT  
43218 CHASE STREET  
SOUTH RIDING VIRGINIA



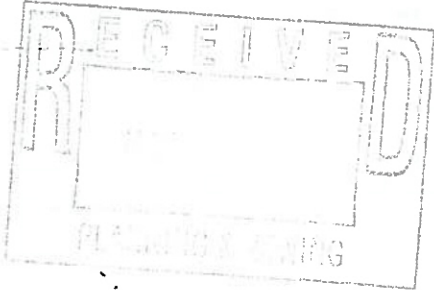
FIRST FLOOR PLAN  
1/4" = 1'-0"



SECOND FLOOR PLAN  
1/4" = 1'-0"



E. DEL RAY AVENUE  
40' R/W

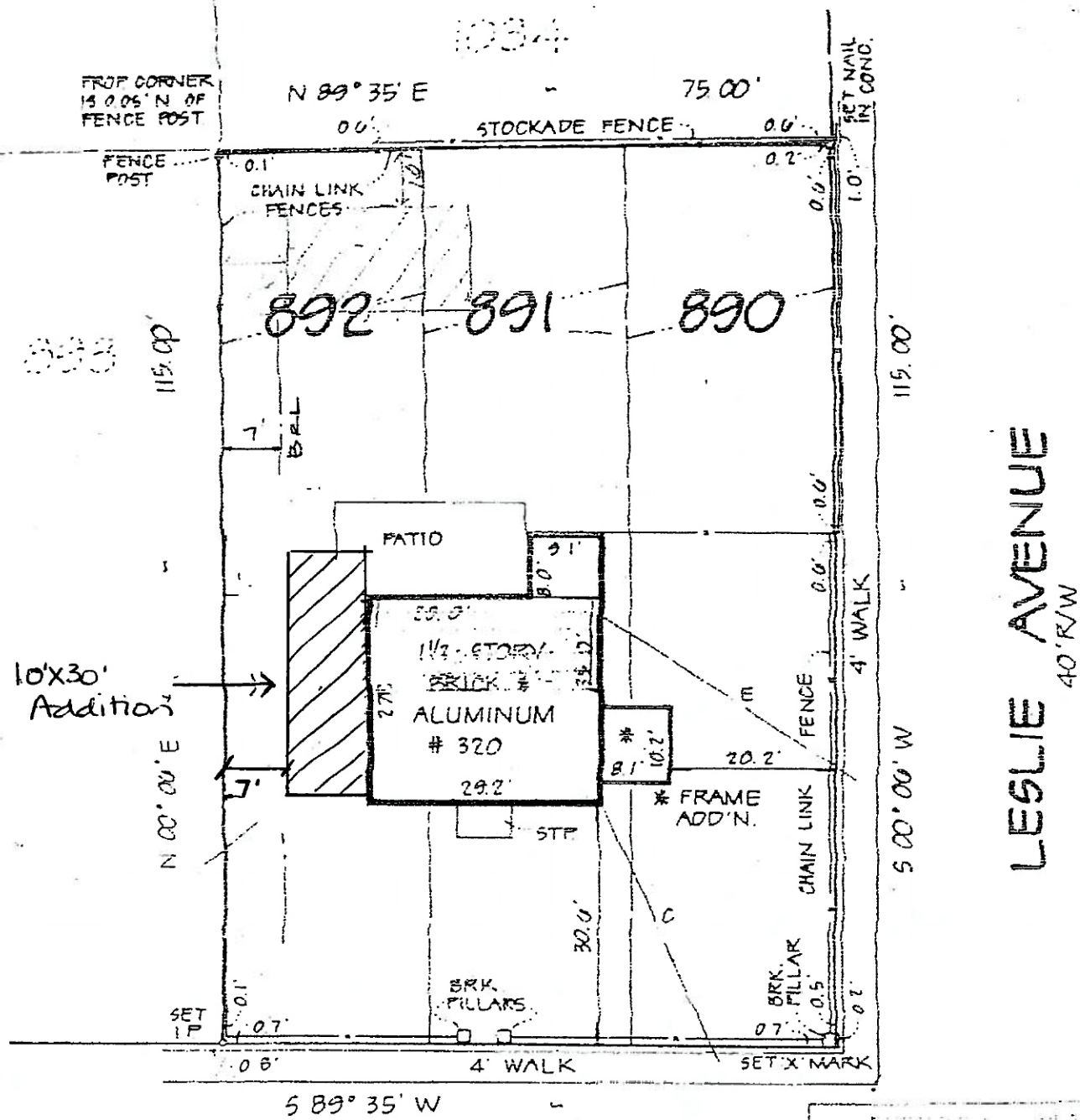


**FLAT**  
SHOWING HOUSE LOCATION ON  
LOTS 890, 891 & 892  
**DEL RAY**  
CITY OF ALEXANDRIA, VIRGINIA  
SCALE: 1" = 20'



Staff Alternative #1

BZA 2009-0015  
File Copy



10x30' Addition

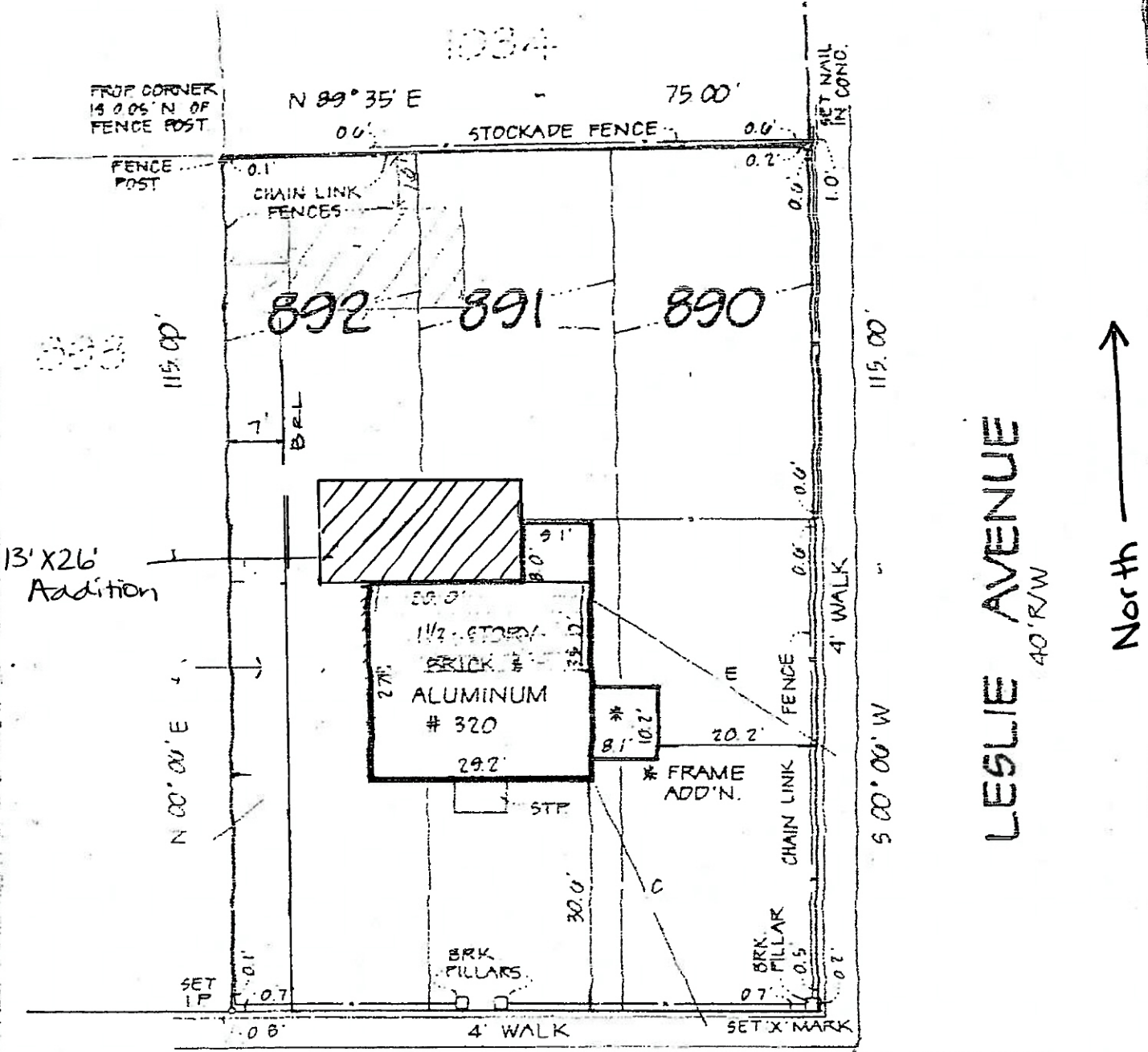
E. DEL RAY AVENUE  
40' R/W

LESLIE AVENUE  
40' R/W

North →

FLAT  
SHOWING HOUSE LOCATION ON  
LOTS 890, 891 & 892  
DEL RAY  
CITY OF ALEXANDRIA, VIRGINIA  
SCALE: 1" = 20'

Staff Alternative #2



E. DEL RAY AVENUE  
40' R/W

FLAT

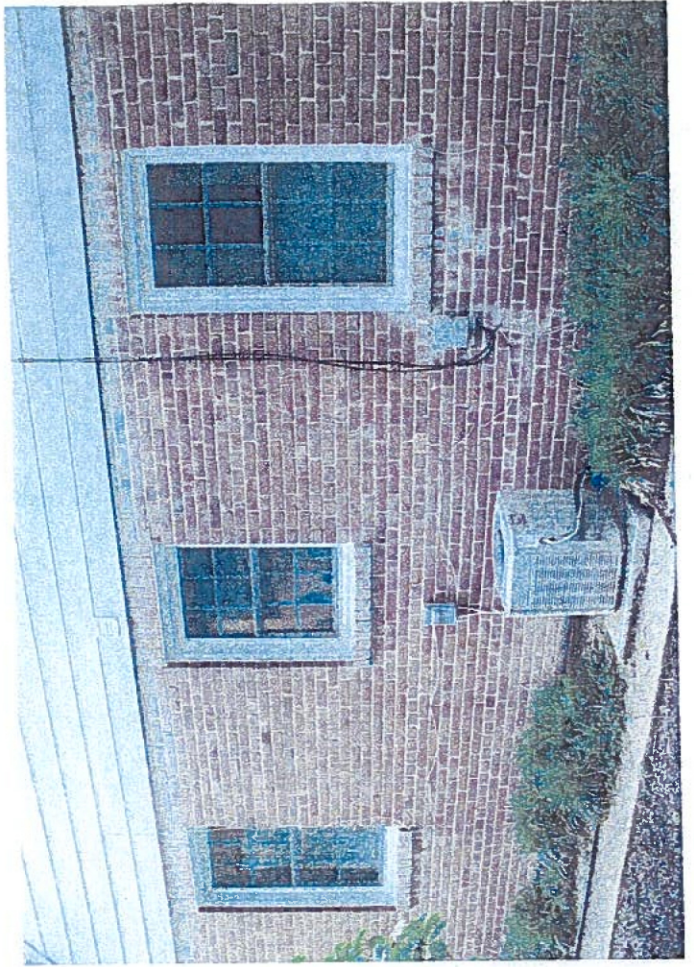
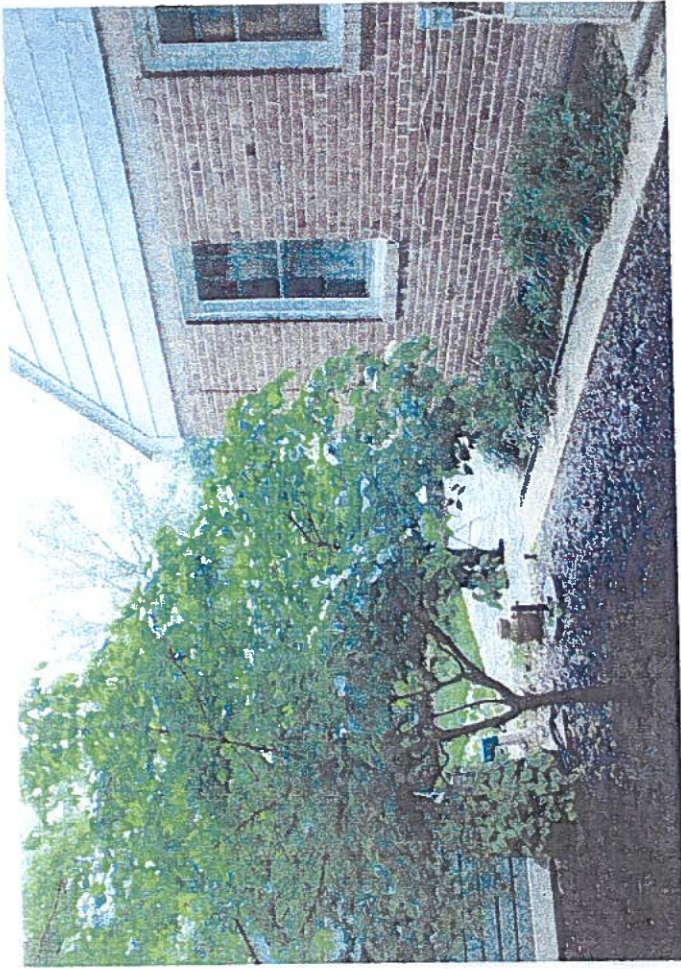
SHOWING HOUSE LOCATION ON  
LOTS 890, 891 & 892

DEL RAY  
CITY OF ALEXANDRIA, VIRGINIA

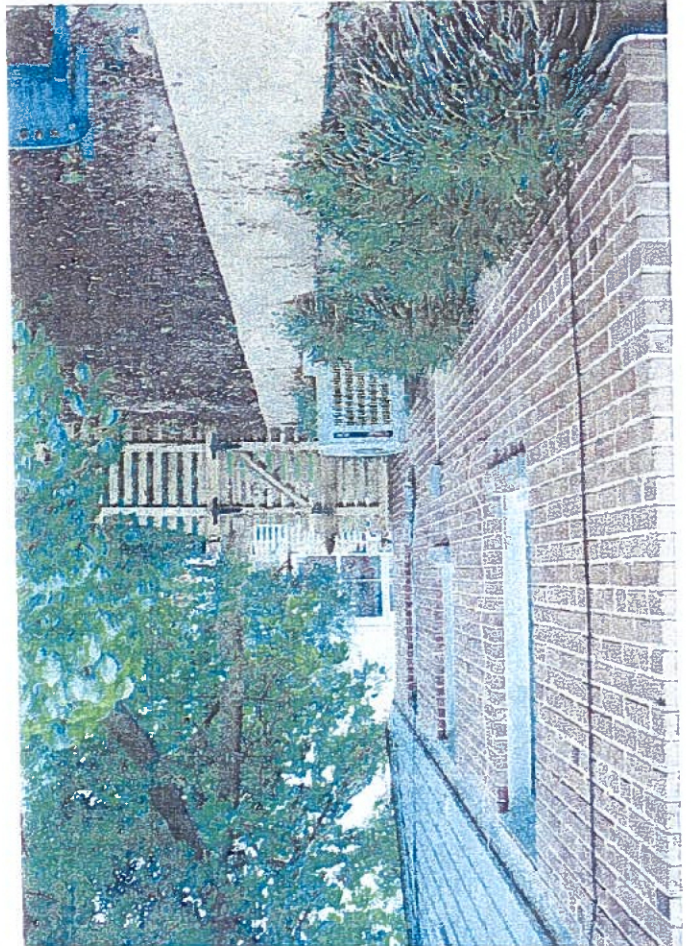
SCALE: 1" = 20'



BZA 2009-0015

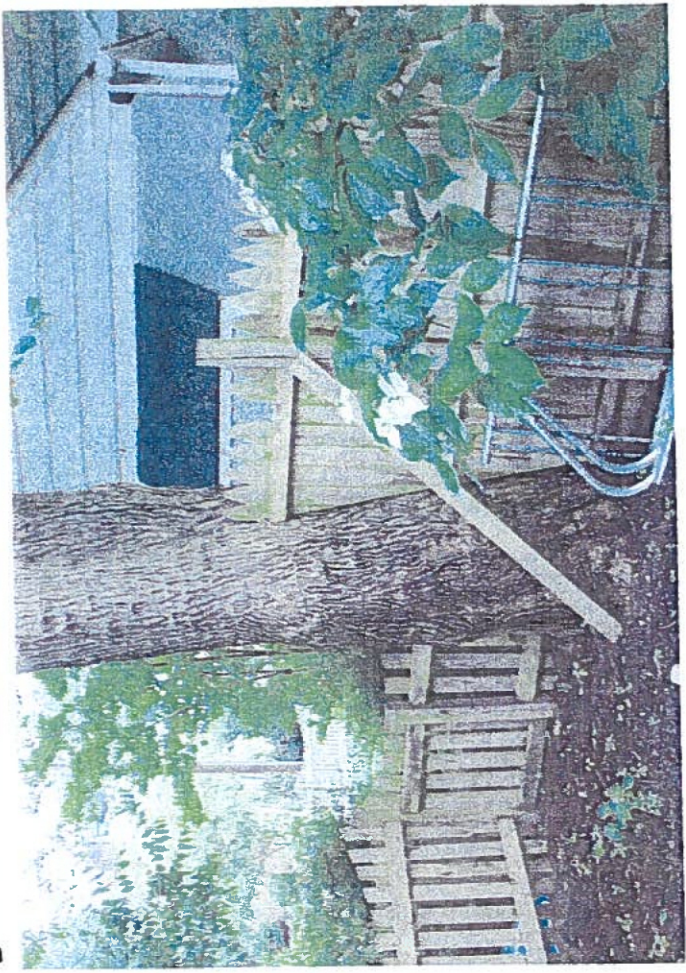
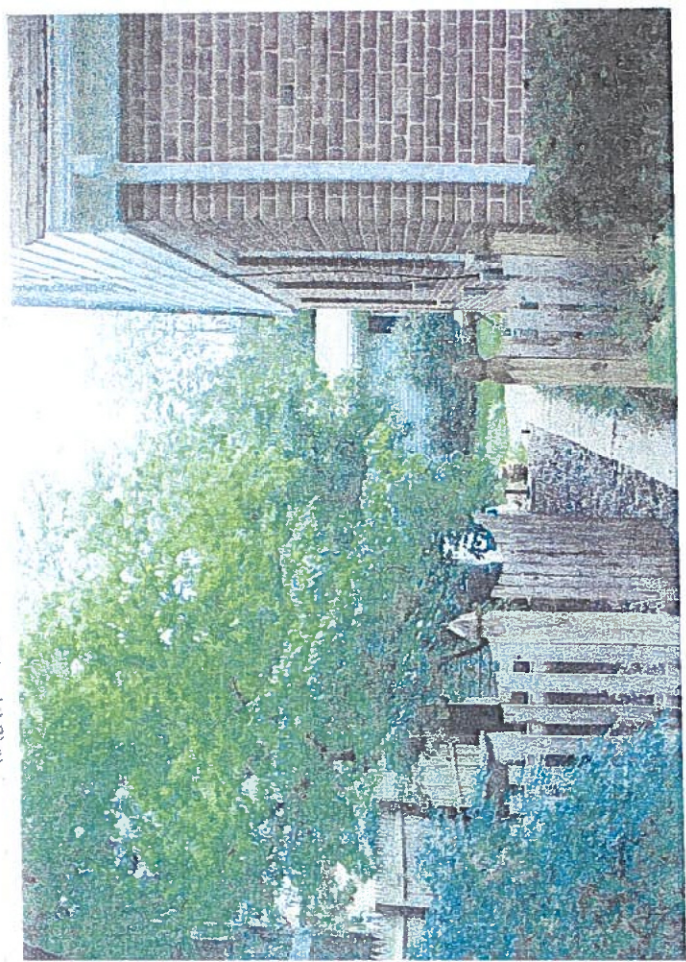


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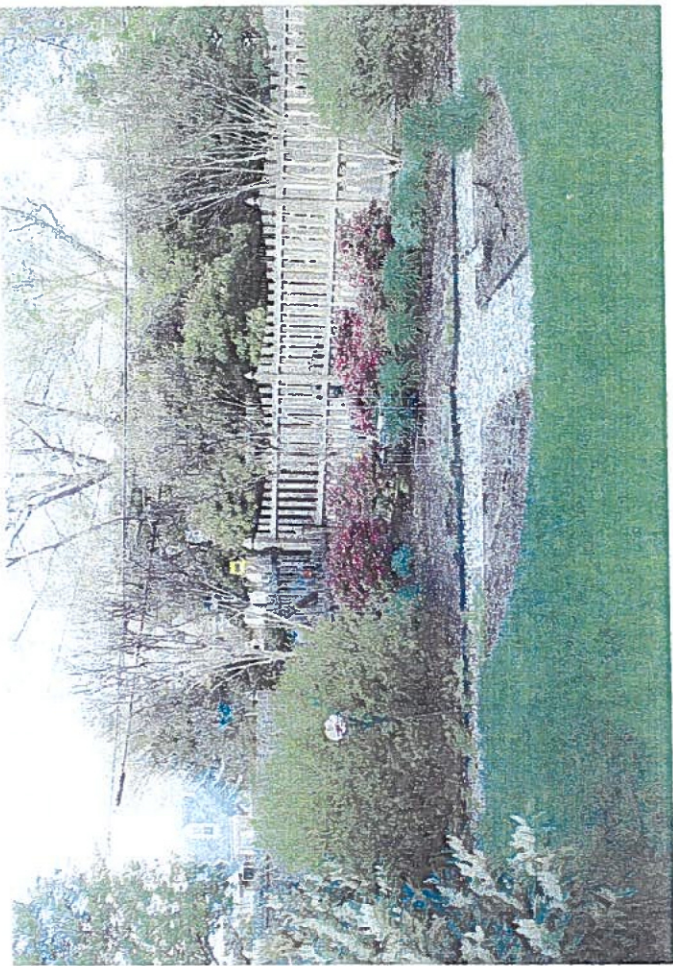
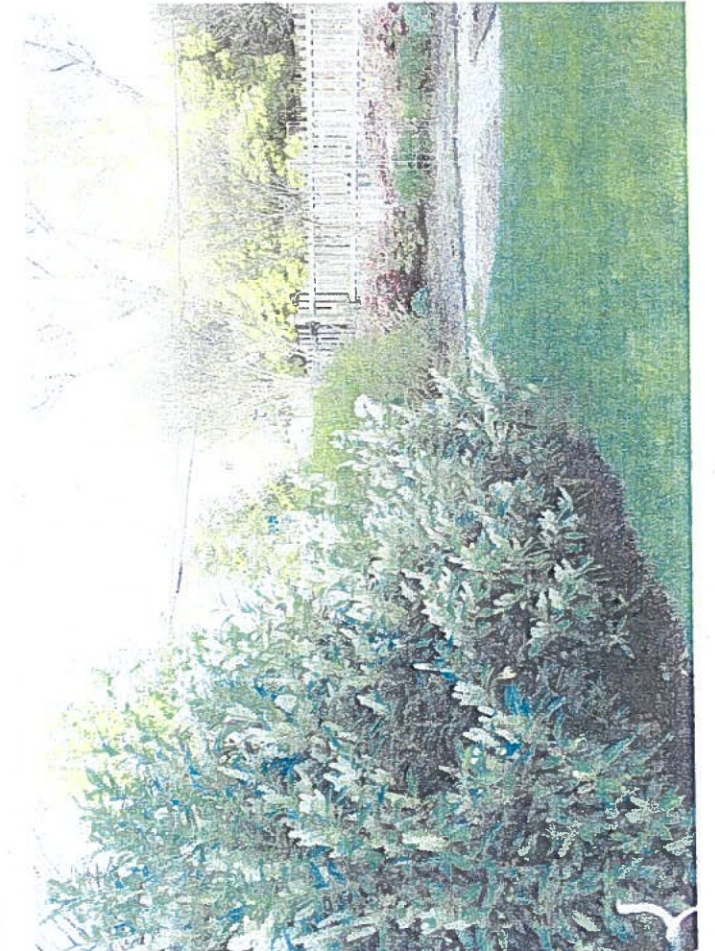
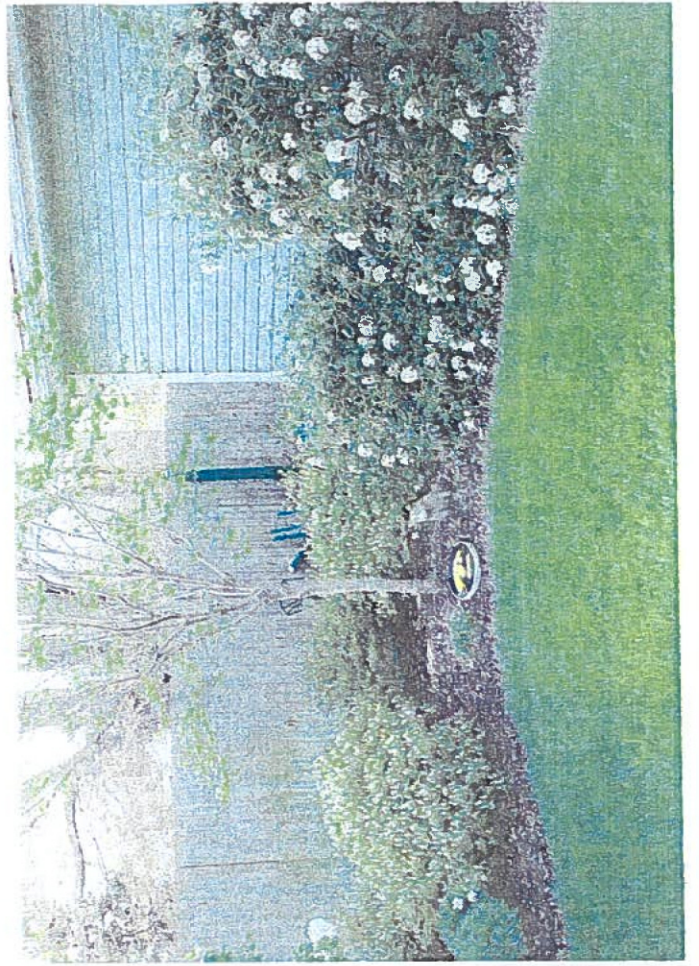


Addition on this side



Neighbors







Landscaping





Docket Item #1  
BZA CASE #94-0045

Board of Zoning Appeals  
March 9, 1995

**ADDRESS:** 320 EAST DEL RAY AVENUE  
**ZONE:** R-2-5, RESIDENTIAL  
**APPLICANT:** PETER C. PAJOR, OWNER

**ISSUE:** Variance to allow approximately 30 feet of a 6.00 feet high existing wood fence to remain within the vision clearance setback of Leslie and East Del Ray Avenues.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-801(A)	Fence Within Vision Clearance	3.50 ft (Max Height)	6.00 ft	2.50 ft (Height)

**BOARD OF ZONING APPEALS ACTION OF DECEMBER 8, 1994:** On a motion to approve as requested by Mr. O'Sullivan, seconded by Mr. Bernabucci, the variance was denied by a vote of 3 to 2 with one abstention. Messrs. O'Sullivan, Bernabucci and Almquist voted for approval; Messrs. Kuckro and Colley voted for denial, and Mr. Dunn abstained.

Mr. Almquist moved to reconsider this case for further discussion. The Board unanimously approved reconsideration of the case.

On a motion by Mr. Dunn, seconded by Mr. Bernabucci, the Board deferred this case by a vote of 6 to 0 to the January 12 hearing, pending a staff report as to whether this vision clearance violation is a technical or a significant traffic safety issue.

**BOARD OF ZONING APPEALS ACTION OF JANUARY 12, 1995:** This case was deferred by staff prior to the hearing because the applicant failed to resend legal notice.

**BOARD OF ZONING APPEALS ACTION OF FEBRUARY 9, 1995:** This case was

deferred by the applicant prior to the hearing because he was out of town.

**BOARD OF ZONING APPEALS ACTION OF MARCH 9, 1995:** On a motion to approve by Mr. Colley, seconded by Mr. Almquist, the variance was approved as requested by a vote of 6 to 0.

**REASON:** This application meets all requirements of zoning ordinance section 11-1103. Because of the conditions of the property involved, strict application of the ordinance would unreasonably restrict the use of the property. Safety issues raised at a previous meeting have been addressed by the Department of Transportation and Environmental Services, indicating that strict application of the ordinance would be excessive for this vision clearance safety issue.



(insert sketch here)

**STAFF CONCLUSION:**

The property does not meet the criteria for a variance.

**DISCUSSION:**

1. The applicant requests a variance to allow approximately 30.00 feet of an existing 6.00 feet high closed wood fence to remain standing within the vision clearance setback area of Leslie Avenue and East Del Ray Avenue.
2. Based on a complaint registered with the Planning Department, on October 13, 1994, the applicant received a zoning violation ticket for a fence erected within the vision clearance setback area. The applicant, shortly after receiving the ticket, filed for a variance to permit the existing wood fence to remain.
3. The existing 6.00 feet high closed wood fence extends 20.20 feet from the east wall of an existing one-story addition to the front property line facing Leslie Avenue, turns north for approximately 55.00 feet along the front property line facing Leslie Avenue, and turns west along the north property line for 54.00 feet connecting to an existing chain link fence located along the remaining 21.00 feet of the north property line. The chain link fence continues along the west property line for 58.00 feet and turns east where it stops at the west building wall of the house. (Refer to attached plat.)
4. The applicant purchased the property in October, 1991. The applicant states that, at the time he purchased the property, the 6.00 feet high wood fence and chain link fence were constructed on the property as shown on the submitted plat dated October 15, 1991.

The applicant indicates that approximately 75.00 feet of chain link fence installed along the front property line of East Del Ray Avenue and 43.00 feet along the front property line of Leslie Avenue has already been removed to open the front yard.

5. The applicant indicates that, if the existing 6.00 feet high wood fence within the vision clearance setback of Leslie and East Del Ray Avenues were removed, it would result in the following problems:

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- (a) Alter the character of the applicant's side and rear yards now used for outdoor recreational purposes
- (b) Reduce privacy and security to the home facing Leslie Avenue which has significant pedestrian traffic
- (c) Increase traffic noise from Leslie Avenue
- (d) Decrease property value of the home
- (e) Eliminate a secure area for the applicant's dog

The applicant states that, if he had known the existing wood fence did not comply with City zoning requirements and had to be removed, he would not have purchased the property.

- 6. Since the existing wood fence predates requirements limiting the size of fences to 3.50 feet in required front yards, the existing wood fence is classified as a noncomplying structure to the extent it is outside the vision clearance area. Within the vision clearance setback area, that portion of the fence above 3.50 feet is not noncomplying; it is illegal. The rule has long been that no structure higher than 3.50 feet may be built within the vision clearance area. As an illegal structure, it must either be removed or receive a variance legalizing its continued existence.
- 7. Only a small portion of the existing fence, at the southeast corner of the fence area, must be removed or lowered to 3.50 feet to comply with the vision clearance requirement.
- 8. There is only one other 6.00 feet high wood fence in the required front yard of a residence in this area. The property owner at 321 East Mount Ida Avenue, which abuts the applicant's property to the south, was given a zoning violation ticket for a fence erected within the required front yard setback of Leslie Avenue and the vision clearance setback area of Leslie and East Mount Ida Avenues. The owner of 321 East Mount Ida Avenue has also applied for a variance to allow his fence to remain (Case #95-0001).
- 9. There have been no variances previously granted for the subject property.
- 10. The Police Department reports that there has been one accident

at the intersection of East Del Ray and Leslie Avenues during the past two years.

11. The subject property, a corner lot, consists of three legal lots of record with a combined frontage of 75.00 feet on East Del Ray Avenue and 115.00 feet of frontage on Leslie Avenue. The lot contains approximately 8,625 square feet.
12. The existing one and one-half story residence with one-story frame addition is located approximately 30.60 feet from East Del Ray Avenue, 20.20 feet from Leslie Avenue, 50.00 feet from the north property line and 17.00 feet from the west property line. A detached garage is located on the north side of the house approximately 10.00 feet from the north property line and 7.00 feet from the west property line.
13. 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 is identified in the Potomac West Small Area Plan for residential land use.
14. Although the subject property is located within the Town of Potomac Historic District, it is not listed on the 100 year old buildings list.

**REQUESTED VARIANCES:**

**Section 8-801(A), Vision Clearance:**

The R-2-5 zone requires a vision clearance setback of 100.00 feet from the intersection of Leslie and East Del Ray Avenues. Within the vision clearance area, no structure taller than 3.50 feet may be constructed. The existing 6.00 feet high wood fence is currently located approximately 65.00 feet from the intersection. The applicant is requesting a variance to allow a 6.00 feet high structure within the vision clearance area to remain.

**NONCOMPLYING STRUCTURE:**

The existing building at 320 East Del Ray Avenue is a noncomplying structure with respect to the following:

Front Yard (Leslie Avenue)

<u>Required</u>	<u>Provided</u>	<u>Noncompliance</u>
25.00 ft	20.20 ft	4.80 ft

**STAFF ANALYSIS UNDER CRITERIA OF SECTION 11-1103:**

1. Due to an extraordinary physical situation or conditions of the property, does the strict application of the regulation in question result in an undue hardship because strict application will (1) effectively prohibit the use of the property, or (2) unreasonably restrict the use of the property, or (3) constitute a clearly demonstrable hardship approaching confiscation?

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There is no showing of undue hardship. Strict application of the vision clearance regulations will not result in unnecessary hardship on the applicant nor constitute a hardship approaching confiscation. The applicant could erect a 3.50 feet high fence along 15.00 feet of the Leslie Avenue frontage and 15.00 feet facing East Del Ray Avenue in compliance with the vision clearance setback requirements, without removing the remaining sections of existing 6.00 feet high fence which is classified as a noncomplying structure. The lower fence will continue to afford the applicant privacy, use of the side and rear yard, and a secure environment for the dog while assuring safe vehicle line of sight at the intersection of Leslie and East Del Ray Avenues.

The Alexandria Department of Transportation and Environmental Services had originally opposed the applicant's request because the portion of the existing fence in the vision clearance setback area appeared to create a safety problem along Leslie Avenue. Upon further review, the Department of Transportation and Environmental Services has revised its



comments and has no objections to allowing the existing fence to remain standing at its current location. The Department of Transportation and Environmental Services states that it has no objection to a vision clearance setback of 65.00 feet from the intersection of East Del Ray and Leslie Avenues because Leslie Avenue is a controlled intersection with two-way stop signs and this section of Leslie Avenue is not heavily traveled.

There is one other fence on the west side of Leslie Avenue between East Del Ray and East Mount Ida Avenues. This fence is also in the vision clearance setback area and requires a variance or lower fence to comply with the 3.50 feet height fence limitation. The subject property does not have difficult topography, although it is a corner lot. Properties in the immediate area of the applicant's property share the same physical constraints as the applicant's property.

2. Is the undue hardship identified above unique to the property in question because (1) the hardship is not shared generally by other properties in the same zone and vicinity as the property, and (2) because the situation or condition of the property is not applicable generally to properties in the same zone?
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There is no showing of undue hardship. The properties in the immediate area of Leslie and East Del Ray Avenues share the same general characteristics as the subject property. The applicant's situation and conditions are applicable generally to nearby residential properties which are zoned R-2-5.

3. Is the undue hardship attributable to the applicant in that it was created by the applicant, or was the property acquired by the applicant in good faith?
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The applicant acquired the property in October, 1991, and stated he was not aware that the fence did not comply with the vision clearance setback restrictions for a fence erected on a corner lot; the applicant inherited the zoning violation. The vision clearance setback requirement has been in effect since the 1953 zoning code to assure vehicular safety.

4. Will the variance, if granted, be detrimental to others? Will it be of substantial detriment to adjacent and nearby properties? Will it impair their value? Will it impair their supply of light and air? Will it increase the danger of fire or congestion in the streets? Will it alter the character of the zone in which the property lies? Will it be contrary to the public interest?
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Although the regulations are intended to assure an adequate line of sight for vehicles on heavily traveled streets, there is little danger at this controlled intersection. On the other hand, the applicant's yard concerns can be addressed by lowering the section of the existing fence to 3.50 feet in compliance with the zoning regulations.

5. Is any other remedy available to relieve the hardship?
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No other remedy exists except (1) a variance, (2) to lower or (3) remove the section of fence in the vision clearance setback area in compliance with the zoning regulations.

#### DEPARTMENTAL COMMENTS

##### Transportation and Environmental Services:

R-1 No objections to reduction to 65.00 feet vision clearance.

##### Code Enforcement:

F-1 No comments.

##### Recreation (Arborist):

F-1 No trees are affected by this plan.

##### Board of Architectural Review:

F-1 Not in BAR jurisdiction.

Historic Alexandria (Archaeology):

F-1 This request involves no ground disturbance.

F-2 No archaeological action required.