Docket Item #2
BZA CASE #2009-0018

Board of Zoning Appeals
November 12, 2009

ADDRESS: 2909 KING STREET
ZONE: R-8, RESIDENTIAL
APPLICANT: TERRY AND KATHERINE ZERWICK, TRUSTEES

ISSUE: Variance to construct an open carport over an existing parking space in the required north side yard.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-306(A)(2)	Side Yard (North)	8.00 ft	0.00 ft	8.00 ft

BOARD OF ZONING APPEALS ACTION OF NOVEMBER 12, 2009: On a motion to approve by Mr. Goodale, seconded by Ms. Lewis the variance was approved by a vote of 4 to 2. Mr. Lantzy and Mr. Zander dissented.

Reason to approve: The irregular shape and topography of the lot and the existence of mature trees on the lot combine to limit the carport location and unreasonably restrict the use of the property.

Dissenting Reason: The desire to have a carport does not rise to the level of a hardship.

Speakers:

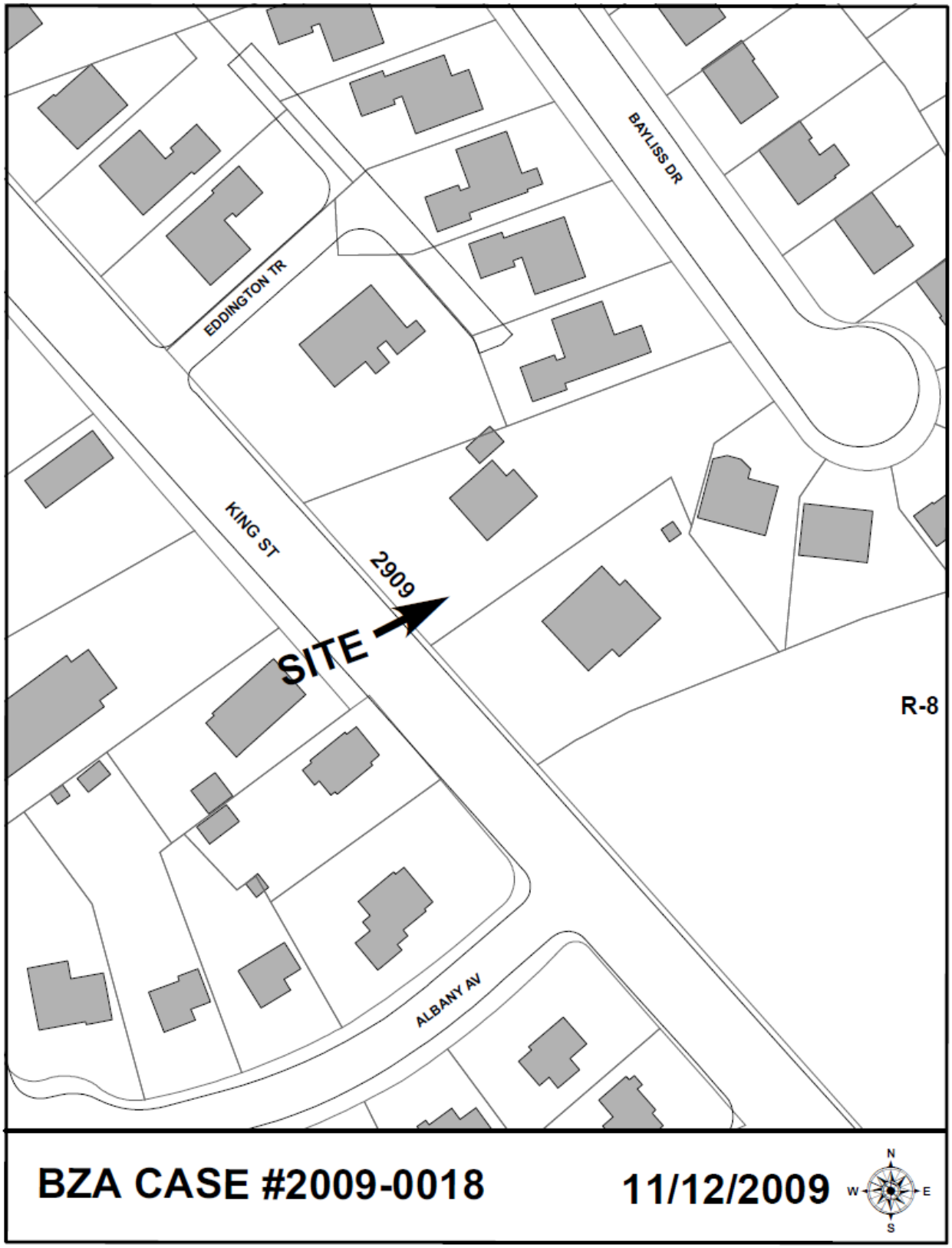
Terry Zerwick, owner, made the presentation.

Charles Brinkman, neighbor at 2905 King Street, spoke in support of the application.

September 9, 2009, deferred prior to the hearing at the request of the applicant.

Staff **recommends approval** of the variance request because the applicants have demonstrated a hardship. With the condition that the carport shall not be enclosed.

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.


EDDINGTON TR
BAYLISS DR
KING ST
2909
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R-8
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BZA CASE #2009-0018
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BZA CASE #2009-0018

I. Issue

The applicants propose to build an open carport above a surface parking space located in the required north side property line at 2909 King Street.

II. Background

The subject property, a through lot, with 120.19 feet of frontage on King Street, 40.00 feet of frontage on Bayless Court and approximately 299.38 feet of depth totals 23,213 square feet of lot area. The subject lot's side property lines are at angle to the property's lot width facing King Street and Bayless Court. The properties topography drops off dramatically nearly 34 feet from where the house has been placed towards Bayless Court. (Refer to attached plat which depicts the grade lines).

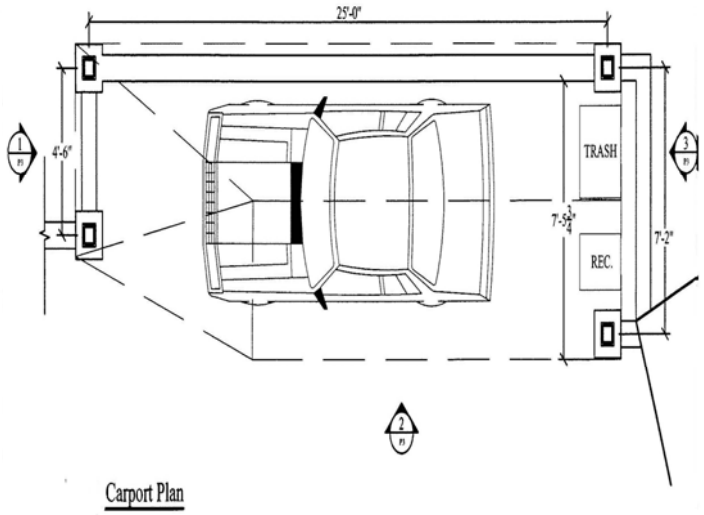
A two-story brick and frame detached single-family dwelling is located 68.00 feet from the front property line facing King Street, 26.00 feet from the south side property line and 32.00 feet from the north side property line. A detached one-car garage and shed are located approximately 2.00 feet from north side property line. A brick circular drive provides access to King Street and the detached garage. Real Estate Assessment records states the house was built in 1937.

III. Description

The proposed one-car carport will be built directly forward and to the side of the detached garage where an existing surface parking space is now used. The carport will be placed up to the north side property line and screened by an existing six-foot tall wood fence. The carport measures 25.00 in depth by 7.50 feet at its widest point and 4.50 feet at its narrowest point and 8.00 feet in height to the roof eave (approximately 11.00 feet to the top of the roof). The slate roof will be supported by four columns.

The most immediately effected neighbors are in support of the requested variance and have written a letter included as part of the staff report.

Upon completion of the improvement the property will continue to comply with the floor area requirements. There have been no variances previously granted for the subject property.



Carport Plan

IV. Master Plan/Zoning

The subject property is zoned R-8, residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the North Ridge/Rosemont Small Area Plan for residential land use.

V. 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.

VI. Applicants' Justification for Hardship

The applicants state the proposed open carport location is a reasonable and a reasonable use of the property. The combination of the angle of the north side property line to the King Street frontage, the placement of the house, steep topography and location of mature trees combine to create a legal hardship. The property owner explored three alternative locations to place the carport were considered. However, the three locations were dropped because of the loss of several mature trees, removal of a historic brick wall that would detract from the architecture of the home and steep drop in topography towards Bayless Court.

VII. Staff Analysis

The applicants' request does rise to the level of a legal hardship. The combination of an irregular shaped lot, steep topography and mature trees combine to limit alternative carport locations and prohibits the reasonable use of the property. The granting of the variance will not be detrimental to the public or to the immediately effected property. In fact, the adjoining property owner is in support of the variance. Finally, because the carport is open it is unlikely the structure will impair light and air to the immediately adjacent property owner.

Based upon the above, staff recommends **approval** of the variance with the condition that the carport will never be enclosed.

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 storm water 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 that 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 New construction must comply with the 2006 edition of the Uniform Statewide Building Code (USBC).

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 any electrical systems.

C-3 Submitted plans shall show framing details ie. Rafter sizes/ trust drawings, column sizes, and column spacing. Footing details and height above grade will also be required. In plan submission to the Office of Code Administration.

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 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.

C-7 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.

Recreation (Arborist):

F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

F-1 This property is situated between two houses that are over 100 years old. The lot may therefore contain buried evidence of late 19th-century domestic activities. In addition, its location on King Street, a major Civil War thoroughfare, suggests a possibility for the recovery of material relating to Union Army activities, although no sites are known.

*R-1 The applicant/developer shall call Alexandria Archaeology (703/838-4399) two weeks before the starting date of any ground disturbance so that a monitoring and inspection schedule for city archaeologists can be arranged.

*R-2 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.

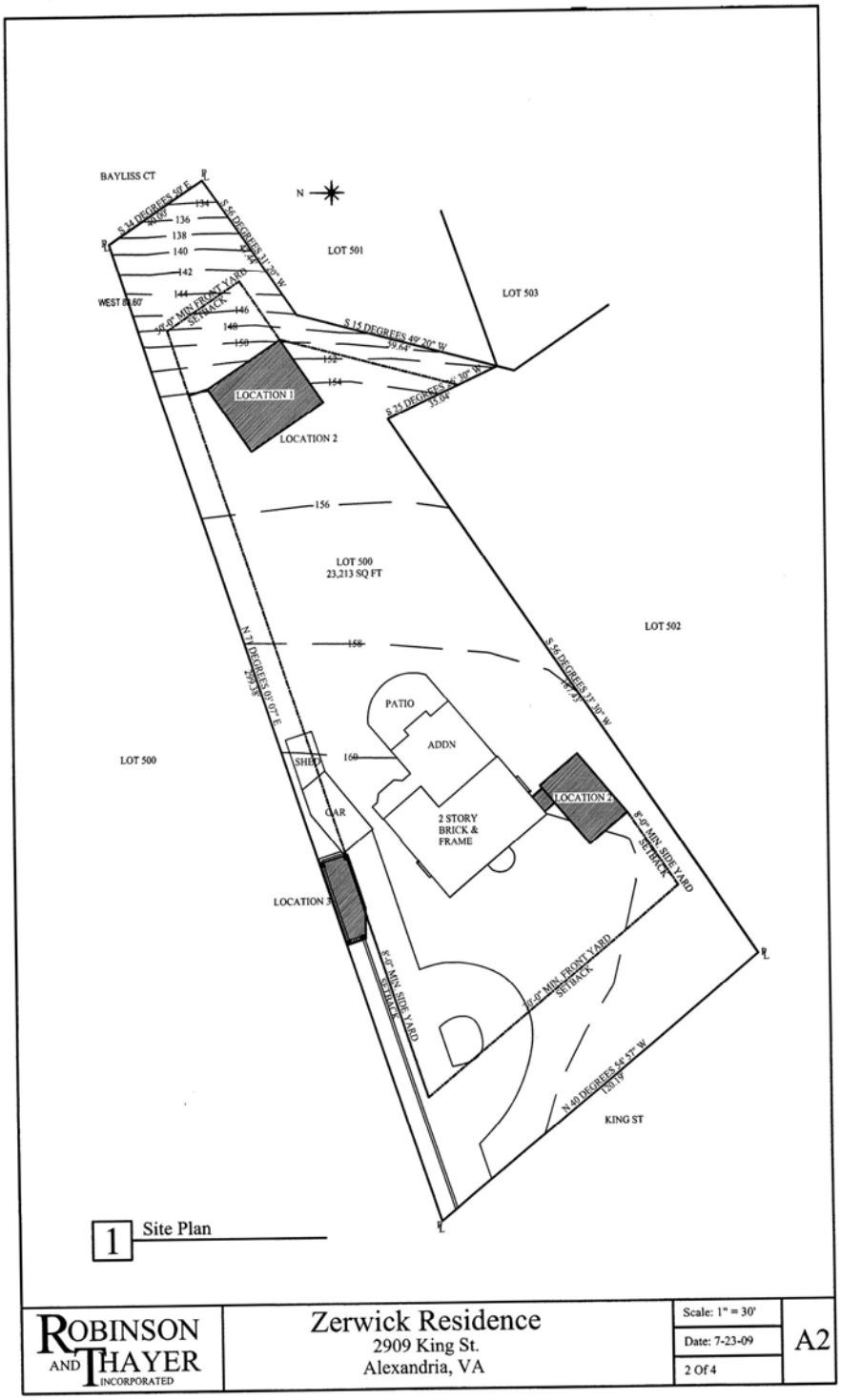
*R-3 The applicant/developer shall not allow any metal detection or artifact collection to be conducted on the property, unless authorized by Alexandria Archaeology.

R-4 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 Basement/Foundation Plans, Demolition, Erosion and Sediment Control, Grading, Landscaping, Utilities, and Sheeting and Shoring) so that on-site contractors are aware of the requirements.

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.

VIII. Images


BAYLISS CT
N
LOT 501
LOT 503
LOT 502
LOT 500
LOT 500
23,213 SQ FT
LOCATION 1
LOCATION 2
LOCATION 3
LOCATION 4
PATIO
ADDN
SHED
CAR
2 STORY
BRICK &
FRAME
KING ST
1 Site Plan
ROBINSON AND THAYER INCORPORATED
Zerwick Residence
2909 King St.
Alexandria, VA
Scale: 1" = 30'
Date: 7-23-09
2 Of 4
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APPLICATION
BOARD OF ZONING APPEALS
VARIANCE

BZA CASE # BZA 2009-0018

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

PART A

1. **Applicant:** [x] **Owner** [ ] **Contract Purchaser**
   Name Terry E & Katherine W Zerwick
   Address 2909 King Street, Alexandria, VA 22302
   Home phone: 703-548-0717 Daytime Phone 703-379-8700
   Cell phone: 703-615-7447

2. **Property Location** 2909 King Street

3. **Assessment Map** 042.03 Block 06 Lot 11 Zone R-8
   Account No. 16472050

4. **Legal Property Owner:** Terry E Zerwick Trust and Katherine W Trust,
   Name Terry E Zerwick and Katherine W Zerwick Trustees, co-equal tenants
   Address 2909 King Street, Alexandria, VA 22302

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5. Describe request briefly :

Applicant requests approval to construct rectangular open carport with A-shaped slate roof, supported by four columns, approximately 8 feet by 25 feet, over existing brick surface adjacent to existing garage.

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?

NOT APPLICABLE

[ ] 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:

Katherine W. Zerwick

Terry E Zerwick

print name

signature

Day: 703-379-8700

telephone Home: 703-548-0717

Cell: 703-615-7447

July 22, 2009

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.

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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 harship refers to the shape and toographical conditions, or to some other unique character istic 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:
No.

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

Yes. The Application for Variance is submitted to enable the construction of an open carport to cover an existing parking space for one vehicle. Applicant considers this a reasonable use of the property. The combination of the angle of the side property line, the placement of the house, steep topography and location of mature trees combine to create a legal hardship and unreasonable restriction on placing a modest open carport in any location other than the one selected. Alternative carport locations, discussed in Part C of this Application, will result in the loss of several mature trees, removal of historic features (wall) and detract from the architecture of the home. For the above reasons, Applicant believes there is adequate justification in support of this modest setback variance request. Applicant will also agree, should the Board support this variance request, to a condition that the carport will not be enclosed.

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2. Is this hardship unique to the property?

A. Is the hardship shared by other properties in the neighborhood? Explain:
No.

B. Does the situation or condition of the property (on whicht his appication is based) apply generally to the other properties in t he same zone? Explain:
No.

3. Was the hardship caused by the applicant?

A. Did the condition exist when the property was purchased?
No. The house, driveway and garage were in their present location at the time the present owners (the Applicant) purchased the property in 1978.

B. Did the applicant apply the property without knowing of the hardship?
No.

C. How was the condition which creates the hardship first created?
The conditions which create the hardship existed at the time of purchase by the Applicant.in 1978.

D. Did the applicant create the hardship and, if so, how was it created?
No.

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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 harm to any adjacent property is perceived.

B. Will it harm the value of adjacent and nearby proerties?

No diminution in value is perceived. The slate roof of the proposed carport will be visible through the holly tree and other evergreen tree on the adjoining Whitmer property and will increase the privacy of the neighbor's pool area.

C. Has the applicant shown the proposed palns 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.

Yes. I have shown the designer's plans and complete Application for Variance with all attachments to Martin & Julie Whitmer, owners of the adjoining property. The Whitmers have written a short letter in support of the Application for Variance which is attached.

D. Will it change the character of the neighborhood?

No.

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

No.

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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.

Three alternate locations were considered for a carport/garage:

Location 1: Subject property fronts on Bayliss Court as well as King Street. The rear part of the property fronting Bayliss Court is very steep (see topographical map of property); slumping of the soil on this hill has been a problem. The steepness of the terrain makes it impractical and unworkable to create access to a carport from Bayliss Court.

Location 2: An architect proposed attaching a garage to the Southwest corner of the house. See architectural drawing and plat of this proposal. The garage would face King Street and the driveway to it would involve a curb cut onto King Street, paving of a large area of the front yard, and partial demolition of an architecturally significant brick wall circa 1935. Perhaps, the biggest drawback to this plan would be the destruction of a large 35-foot specimen Japanese maple tree. For many practical and aesthetic reasons this solution is not warranted.

Location 3: The most practical and aesthetically pleasing of the three possible locations of a carport/garage is over an existing parking space next to the existing garage on the north boundary of the property. An existing 8-foot high fence and a large holly tree would block the adjacent property owner's view of the proposed carport. A line of cedar trees along the northern boundary of the driveway would block view of the carport from King Street.

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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: 2909 King Street Zone: R-8

A2. 23,213 square feet (Total Lot Area) x .35 (Floor Area Ratio Allowed by Zone) = 8124.55 square feet (Maximum Allowable Floor Area)

B. Existing Gross Floor Area

Existing Gross Area *		Allowable Exclusions	
Basement	808.41	Basement**	808.41
First Floor	1,497.95	Stairways**	57.75
Second Floor	1,497.95	Mechanical**	
Third Floor	N/A	Porch/ Garage**	235.71
Porches/ Other	326.71	Attic less than 5'**	
Total Gross *	4,131.02	**Total Exclusions**	1,101.87

B1. Existing Gross Floor Area * 4,131.02 Sq. Ft.
B2. Allowable Floor Exclusions** 1,101.87 Sq. Ft.
B3. Existing Floor Area minus Exclusions 3,029.15 Sq. Ft. (subtract B2 from B1)

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

Proposed Gross Area*		Allowable Exclusions	
Basement		Basement**	
First Floor		Stairways**	
Second Floor		Mechanical**	
Third Floor		Porch/ Garage**	183
Porches/ Other	183	Attic less than 5'**	
Total Gross *		Total Exclusions	

C1. Proposed Gross Floor Area * 183 Sq. Ft.
C2. Allowable Floor Exclusions** 183 Sq. Ft.
C3. Proposed Floor Area minus Exclusions 0 Sq. Ft. (subtract C2 from C1)

D. Existing + Proposed Floor Area

D1. Total Floor Area (add B3 and C3) 3,029.15 Sq. Ft.
D2. Total Floor Area Allowed by Zone (A2) 8,124.55 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	NOT APPLICABLE
Required Open Space	
Proposed Open Space	

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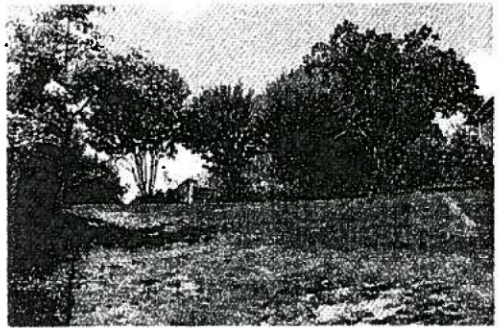
The undersigned hereby certifies and attests that, to the best of his/her knowledge, the above computations are true and correct.

Signature: Terry E Zerwick Date: July 22, 2009
Katherine W Zerwick July 22, 2009

Updated July 10, 2008

1 King St Elevation Looking East

2 King St Elevation Looking West



3 Bayliss Ct Elevation Looking West

4 Maple Tree in Front Yd

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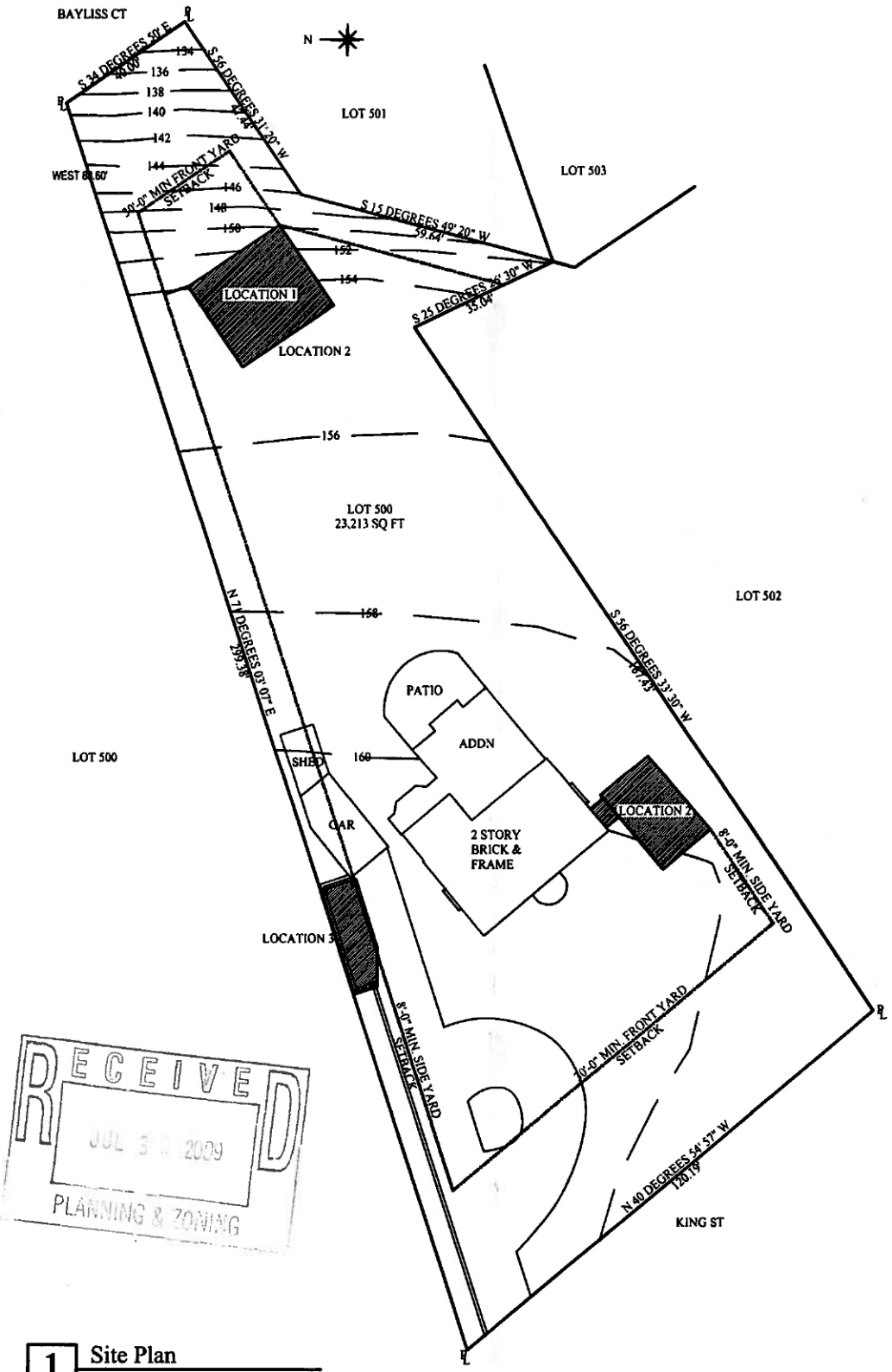

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1 Site Plan

ROBINSON AND THAYER

Zerwick Residence
2909 King St.
Alexandria, VA

Scale: 1" = 30'
Date: 7-23-09

A2

1 Elevation - Looking East

2 Elevation - Looking South

Zerwick Residence
2909 King St.
Alexandria, VA

Scale: 1/8" = 1'-0"
Date: 7-23-09

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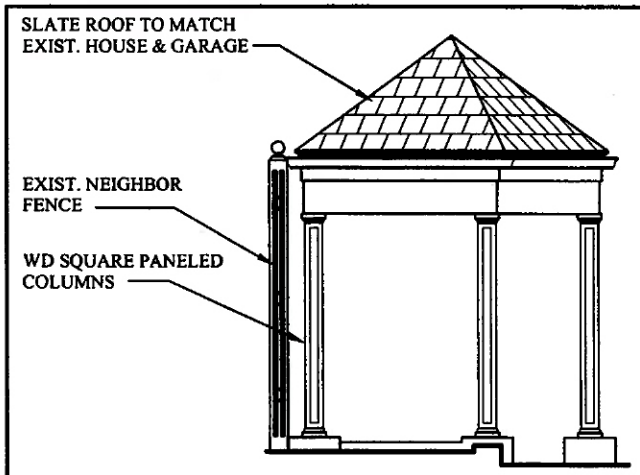
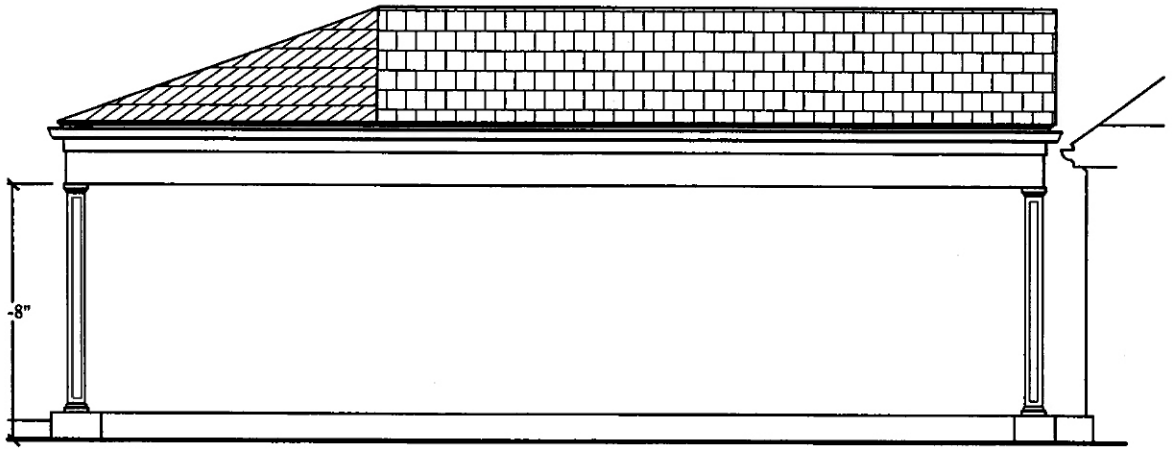
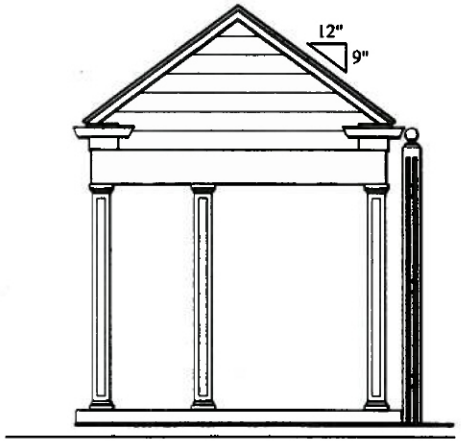
ROBINSON AND THAYER



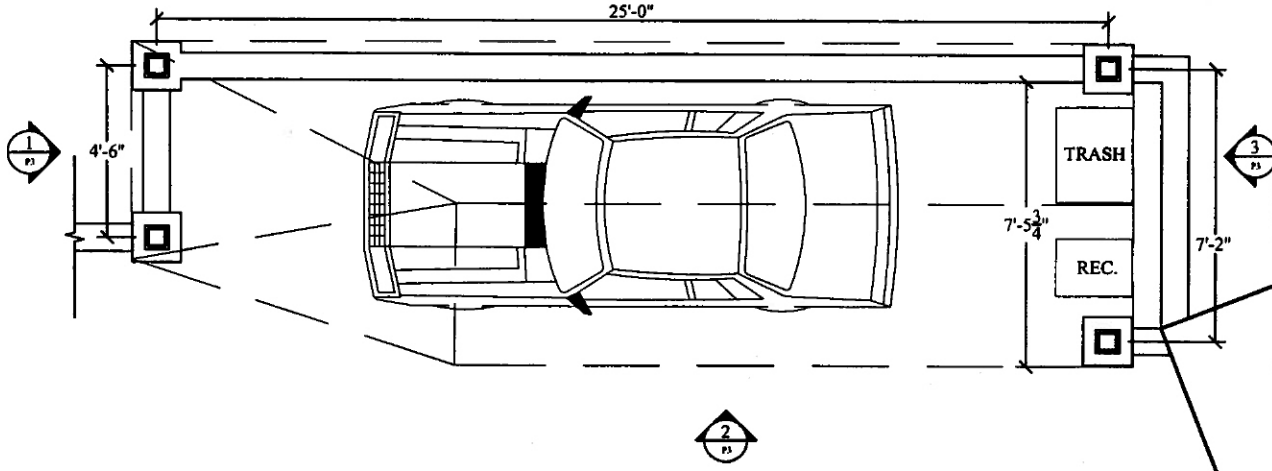
1 Carpert Elevation - Looking East



2 Carport Elevation - Looking North



3 Carport Elevation - Looking West



4 Carport Plan

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Scale: 1/4" = 1'-0"

Date: 7-23-09

Zerwick Residence
2909 King St.

ROBINSON AND THAYER

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BZA 2009-0018

Martin & Julie Whitmer
2915 King Street
Alexandria, Virginia 22302

Date: 07/25/09

Board of Zoning Appeals
301 King Street
Alexandria, Virginia 22313

Dear Members of the Board,

Our neighbors, Terry & Kay Zerwick, who live at 2909 King Street, have applied to the Board for approval to construct an open carport on the North side of their property adjacent to their garage. Our property abuts the Zerwick property where the proposed carport would be located.

Mr. Zerwick shared with us his Application for Variance, which included the designer's plans for the carport, and a plat showing the exact location of the proposed carport. In addition, Mr. Zerwick afforded us the opportunity to visit the proposed construction site and to ask questions about the proposed construction.

We have no objection to construction of the proposed carport, as explained in the Application, and support approval of the proposed carport by the Board.

Sincerely,

Martin Whitmer

Julie Whitmer

BZA 2009-0018

September 13, 2009

To Whom It May Concern:

I am the owner of 2906 King Street, which borders the Zerwick property located at 2909 King Street. I have reviewed the architectural drawings, and fully support the proposed construction of a new carport.

Sincerely,

Pamela A. Reese
Owner, 2906 King Street, Alexandria, VA 22302
Ph: 703-888-1861

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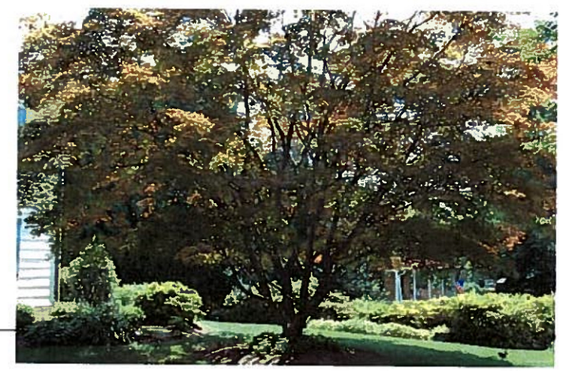
1 King St Elevation Looking East

2 King St Elevation Looking West

3 Bayliss Ct Elevation Looking West



4 Maple Tree in Front Yd

Zerwick Residence
2909 King St
Alexandria, VA

Scale: No Scale | Date: 7.23.09 | 1 of 4

A1

ROBINSON AND THAYER INCORPORATED