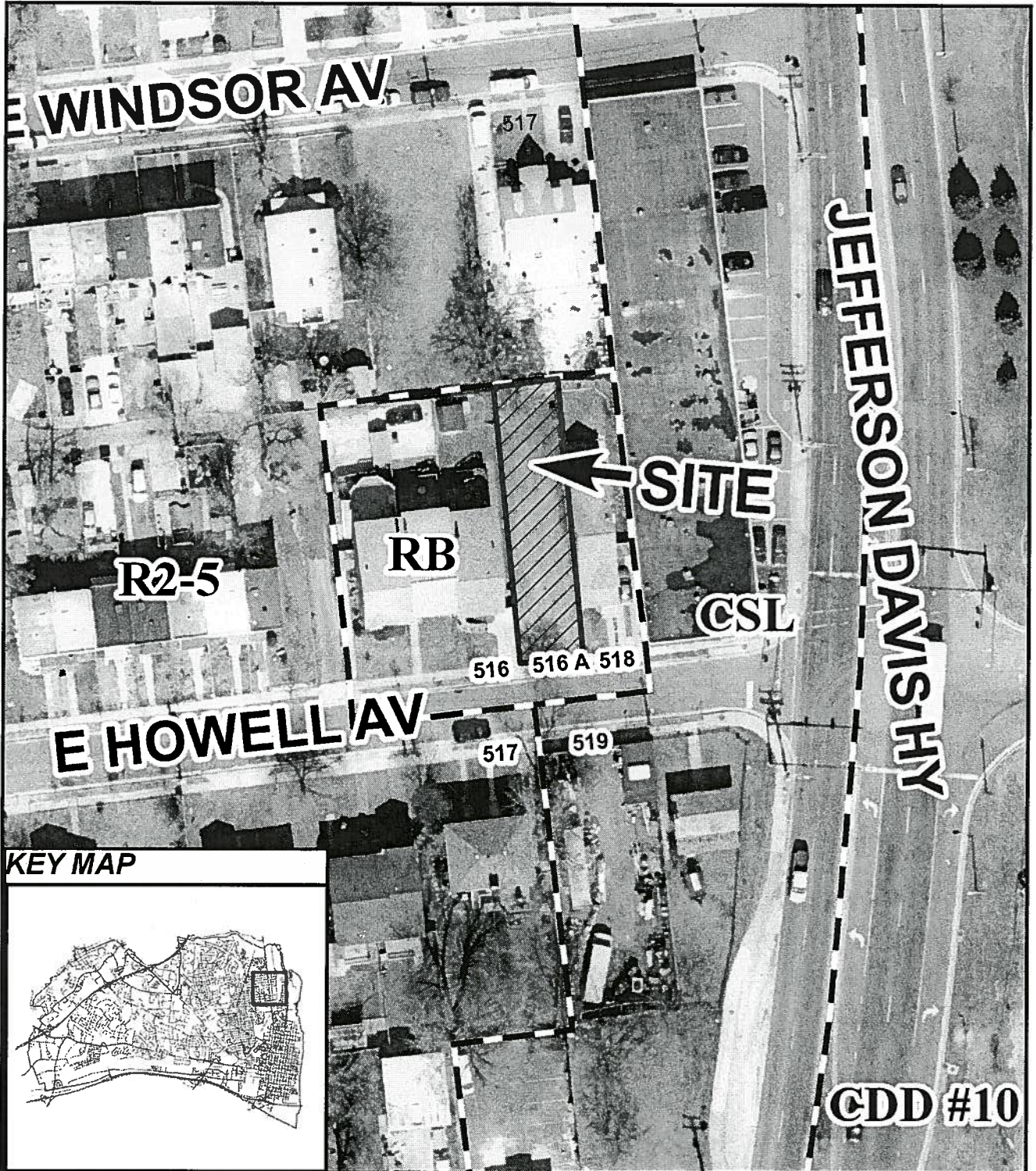


DOCKET ITEM #6
Special Use Permit #2009-0059
516 A East Howell Avenue – Parking Reduction

Application	General Data	
Request: Consideration of a request for a parking reduction and yard modifications for a single family detached home.	Planning Commission Hearing:	February 2, 2010
	City Council Hearing:	February 20, 2010
Address: 516 A East Howell Avenue	Zone:	RB/Residential
Applicant: Douglas Drabkowski	Small Area Plan:	Potomac West

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

Staff Reviewers: Nathan Randall nathan.randall@alexandriava.gov



SUP #2009-0059

02/02/10



I. DISCUSSION

REQUEST

The applicant, Doug Drabkowski, requests special use permit approval to build a single-family detached dwelling with front and side yard modifications and a parking reduction at 516A E. Howell Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 25 feet of frontage on E. Howell Avenue 115 feet of depth and a total lot area of 2,875 square feet. The site is undeveloped.

The surrounding area is occupied by primarily residential uses. A contractor's storage yard is located to the south diagonally across East Howell Avenue. Immediately to the east is a single-family dwelling and an overnight pet boarding facility facing Jefferson Davis Highway. To the north are single-family dwellings. To the west are residential townhouses.



BACKGROUND

On May 18, 2002, City Council granted Special Use Permit #2001-0066 for the construction of a single-family detached dwelling with a parking reduction to allow tandem parking and a zero side yard setback at the neighboring property at 518 E. Howell Ave. The design of the house at this location received considerable attention and revision prior to approval, with the final design incorporating traditional elements that were judged to relate well to other homes the immediate area and throughout Del Ray.

At the time, staff indicated a preference for the lots at 518 and 516A E. Howell to be developed simultaneously with semi-detached dwellings. The lots were not jointly owned, however, and the 516A property was owned by an estate that was unable to coordinate development. As a result, a compromise was reached to place the new dwelling at 518 E. Howell on the western property line, anticipating a future connection with 516A E. Howell. Nothing in the Special Use Permit conditions or the staff report language requires the two structures to be attached, however.

The applicant has approached the current owners of the 518 E. Howell property, who are not same individuals who brought forward the Special Use Permit request in 2002, regarding the concept of attaching his proposed home to theirs. The applicant indicates that the owners objected to this request.

The applicant applied for a variance last year. The case involved side yard reductions similar to those in the current proposal. The project also included two full parking spaces in front of the new house in a double wide curb cut. Staff supported the yard variances but not the curb cut both from a design and streetscape perspective and because it would require removal of the existing Chinese Elm street tree. The applicant therefore withdrew his variance request to file this SUP application reducing the two required parking spaces to one space.

PROPOSAL

The applicant requests a parking reduction from two spaces to one and modifications for front and side yards in order to construct a 2,260 square foot single-family dwelling. The front yard modification request is from the required 27.35 feet to 20.42 feet, a difference of 6.93. The side yard modification requests are from the required 9.5 feet on each side to 3.1 feet on the west and 4.1 to the east. The dwelling’s design, which has evolved as a result of discussions with staff and the neighborhood, features a one-story front porch, a roofline parallel to the street, and a third-story dormer in front in place of a full third story. The current design, layout and placement of the structure on the lot are shown in illustrations dated January 4, 2010 and attached to this report. Greater detail on proposal specifics may also be found in the table below.

	Required	Proposed
Min Front Yard Setback	Average on block – 27.35’	20.42’
Min Rear Yard Setback	28.37’	36.5’ to dwelling 26.5’ to GL deck
Min Side Yard Setback (West)	9.5’	3.1’
Min Side Yard Setback (East)	9.5’	4.1’
Max Height	Average on block plus 20%	28.37’
Max FAR	0.75	0.75
Min Open Space	800 SF	843 SF
Min Lot Size	1,980 SF	2,875 SF
Min Lot Width/Frontage	50’	25’

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the RB/Townhouse zone. Section 8-100 of the zoning ordinance allows a parking reduction only with a special use permit.

The lot contains 2,875 square feet, with a lot width and frontage of 25 feet, and was recorded prior to 1951. The RB zone ordinarily requires a minimum of 50 feet of lot width and frontage. However, pursuant to Section 3-707(B) of the zoning ordinance, any lot in the RB zone recorded prior to December 28, 1951, may be developed with a single family residence at the lot size shown on the recorded plat.

The proposed use is consistent with the Potomac West small area plan chapter of the Master Plan which designates the property for residential use.

PARKING

Pursuant to Section 8-200(A)(1) of the zoning ordinance, a minimum of two standard size parking spaces are required for single family detached dwellings. The applicant requests Special Use Permit approval for a parking reduction to allow one parking space accessed from a new curb cut on East Howell Avenue.

II. STAFF ANALYSIS

Staff supports the applicant's proposal to construct a single-family dwelling with side and front yard modifications and with a parking reduction of one space. Staff recognizes the challenge in creating a good design for the placement of the dwelling and parking given the narrow width of the lot and its overall small size. Staff believes that the current proposal, which has received careful consideration by staff and the neighborhood, is a reasonable solution for the development of the property and features a design that is appropriate for the surrounding neighborhood.

Overall Design

Staff has worked with the applicant to refine the design of his proposed single-family dwelling to better match architecture and massing commonly found in the neighborhood. In particular staff used the neighboring house at 518 East Howell as a precedent since that design represented a consensus formed among staff, the neighborhood, the Planning Commission, and the applicant during that Special Use Permit approval process.

The four illustrations on the following pages show the evolution of the design of the dwelling. The proposed dwelling at 516A East Howell is shown on the left in each image. The applicant originally proposed a dwelling with three full stories facing the street, a roofline running perpendicular to the street, and a two-story front porch that included a third-story balcony. In his first revision the applicant removed the third-floor balcony and changed the windows but kept all other features the same. In the applicant's second revision, the porch was reduced to just the first floor and a hip roof was added, but the porch roofline was perpendicular to the street and staff believed that the massing of the third story was still not compatible with the neighborhood.

Original Proposal



First Revision



Second Revision



The applicant's third revision and current proposal, shown below, is now consistent staff's original recommendations. The roofline is now parallel to the street, like other houses in the neighborhood, and the one-story porch has a roofline similar to the house next-door. The dwelling appears less bulky from the street with the third-story sloping roof and the central dormer allows the applicant to retain additional space and light in the third-story space.

Third Revision – Current Proposal



Yard Modifications

Staff finds that the 27.35-foot average front yard setback required by the infill regulations is not entirely appropriate for this specific property since it would require the new dwelling to be setback farther from the street than either of the two neighboring structures. The front of the new house as now proposed will match the setback for the house next-door at 518 East Howell, which staff believes is the best approach from a design perspective. Staff therefore supports the applicant's front yard modification request.

With regard to side yards, some modification seems reasonable in order to build a single-family dwelling on this 25-foot wide lot. At the proposed height, which is average for the immediate area, the applicant could only construct a 6-foot wide house if meeting the required 9.5-foot side yard setbacks requirements. Staff acknowledges that the proposed 3.1-foot and 4.1-foot side yards are small, although because of the existing driveway at neighboring 516 E. Howell, there will be more separation between dwellings on the west side.

The applicant could make the house narrower in order to create larger side yards and decrease the degree of the requested modification. While narrowing the house and adding a foot or so of setback to either side is possible, this would not result in a significantly more useable side yard or a perceptibly different separation between the houses. Creating a more meaningful space in the side yards would require a minimum of six feet on each side, which would still result in a side yard of somewhat limited use and a house measuring 13 feet wide. An eight-foot side yard would be more fully functional and would count toward open space requirements, but this would result in a house measuring nine feet wide. The applicant's request to build a 17.8-foot wide house seems reasonable and is not considerably wider than the house next-door at 518 East Howell, which was approved to be 16 feet wide and was built 15.5 feet wide.

Staff also researched approximate side yards existing in this block and found some variety given the mix of existing dwelling types. However, most of the properties on the block are either townhouses or semi-detached dwellings with zero side yard setbacks on either one or both sides. The property next-door at 518 East Howell has a zero side-yard setback on the west side and 9.5 feet on the east side. The single-family homes toward the opposite end of the block have a wider variety of side yards, though they typically range between seven to nine feet, with one home having a side yard of approximately 4.5 feet. Given that the block has so many properties with no side setback between units, staff believes that the proposed dwelling would not be out of place in this neighborhood.

Parking Reduction

Staff has some concern about the potential for neighborhood parking impacts from the requested parking reduction. On-street parking is allowed only on one side of East Howell Avenue and neighbors compete for available spaces. However, the applicant is entitled to build a house on the property and, on balance, the one space parking reduction appears to staff to be a reasonable solution to develop this small site. In order to fit two parking spaces on the property, the design either must have a double-wide curb cut with two cars parked side-by-side in front of the house

or tandem parking on the west side of the lot, pushing the house over to the eastern property line removing the street tree. The double-wide curb cut is objectionable because it is so unattractive, out of character for the neighborhood, and pedestrian unfriendly. Both the applicant and the neighbors at 518 East Howell object to a design which places the house on the eastern property line.

Neighbors' Concerns

Both of the adjacent neighbors, as well as homeowners across the street, have raised objections to the proposal. The Jones', who are located to the west, are concerned about parking and that the proposed side yard adjacent to their lot is too small, raising safety and privacy issues. David Kleiner and Juliann Tigert, neighbors located to the east, raised these and several other issues in their letter dated December 7, 2009 (see attached.)

Side Yards

Staff shares some of the neighbor's concerns about side yards. However, the applicant would need to narrow his proposed dwelling to as little as nine feet to provide side yards of any meaningful size and benefit. Furthermore, building code requirements should help mitigate neighbors' concerns about safety and privacy. The building code requires interior and exterior walls within five feet of an interior property line to be one-hour fire-rated (or a combined two-hour fire rating.) Also, walls located between three and five feet of a property line cannot have openings over more than 25% of the surface area of the wall.

Staff also points out that, in his latest revision, the applicant has removed the east side stairs noted in Mr. Kleiner and Ms. Tigert's letter.

Parking Reduction

Staff acknowledges that the parking situation in the neighborhood is somewhat tight and it shares some of the concern from neighbors regarding the proposed parking reduction. Staff points out that the applicant will be providing one parking space and that public transportation is available in the vicinity. On balance staff finds that the benefit from the proposed site design on this challenging lot outweighs the potential for parking impacts.

Legal Questions

Mr. Kliener and Ms. Tigert raise a number of legal questions in their letter regarding variances and substandard lots. However, the variance requirements they cite do not apply to this case since the applicant is not requesting a variance but rather a modification allowed under Section 11-416(A)(1) of the Zoning Ordinance. The requirements they cite for substandard lots also do not apply since Section 3-707 permits the construction of a single-family dwelling on lots created prior to December 28, 1951, at the size recorded on the plat.

Utilities

As shown in the attached application material, underground electric lines are located across the front and central portion of the lot toward the west side in a semi-circle shape. Underground gas lines are located on the southeastern corner of the property next to 518 East Howell. Staff has discussed the issue with the applicant on several occasions since these lines must be removed prior to construction. According to the applicant, no utility easements exist on the lot, which is consistent with the survey plat. Staff agrees with the applicant that the utility companies most likely erred in locating the lines, possibly because they took the most straightforward or least expensive solution for connecting service to neighboring properties.

Staff has requested that the applicant contact both utility companies to find out how the lines were placed in their present location, what process must take place in order to move the lines, and who must pay for the cost of moving the lines. As of this writing, the applicant has received a response only from Washington Gas, which informed him that it needed additional information, including a plat, which he provided, before it could give a definitive answer. Washington Gas also told the applicant that if a placement error occurred on the site the lines would be relocated at no cost to any property owner.

Staff agrees with the neighbors' concern about utilities. Although it acknowledges his efforts, staff does not believe the applicant has fully settled the issue. Therefore, staff has included condition language requiring the applicant to report to City staff on a regular basis regarding the process, costs, and who will pay for utility relocation until such time as the issue is resolved.

Drainage

Neighbors have expressed concern about drainage since the existing vacant lot has more permeable surface area than the proposed developed lot. While true, staff notes that the property is permitted to be developed as a single-family dwelling. The City has developed various processes and requirements designed to mitigate potential drainage problems, however. The grading plan process, which is required for new single-family homes, will evaluate the potential for drainage impacts and require remediation if necessary. Staff has also included condition language requiring that the driveway be surfaced using a permeable paving system to help mitigate potential drainage concerns.

Accessory Structures

Concerns have also been expressed about potential accessory structures, including air conditioning units. Locating air conditioning units or other structures on either side of the proposed house would not likely be permitted under Section 7-202 of the Zoning Ordinance. Nonetheless staff has included condition language that will prohibit accessory structures, including air conditioning units, from the side yards. HVAC unit(s) would only be allowed to the rear of the dwelling.

Except for a rear ground-level deck, the applicant has not proposed any accessory structures in his application. While perhaps not impossible for the applicant to build a small accessory

structure in rear yard in the future, it would be challenging to do so because most of the rear yard is necessary to meet minimum open space requirements.

Tree Crown Coverage

Finally, a question has been raised about Concern has been expressed about how the applicant will meet the 25% tree crown coverage requirement of the Zoning Ordinance. The applicant will be required to meet this requirement by planting one or more trees in his rear yard area consistent with the City's Landscape Guidelines. Sufficient area exists for the applicant to do this. Staff has included condition language requiring a landscape plan to be submitted with the grading plan. Therefore the applicant's specific proposal will be reviewed as a part of that process.

Del Ray Neighborhood

Staff has also attended two meetings of the Del Ray Land Use Committee to discuss the proposal. Staff understands that the Committee does not object to the proposal.

Conclusion

Staff believes that the requested yard modifications and parking reduction, along with the improved architectural design of the proposed dwelling and the conditions required as part of the SUP, represent a reasonable development solution for this challenging site. Staff recommends approval of the Special Use Permit request subject to the conditions contained in the staff report.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** of the Special Use Permit request. Should the request be approved, staff recommends that such approval be subject to compliance with all applicable codes and ordinances and the following conditions:

1. The single-family dwelling shall be consistent with the design as shown in illustrations dated January 4, 2010 to the satisfaction of the Director of Planning & Zoning. (P&Z)
2. All driveway areas shall be surfaced with a permeable paving system to the satisfaction of the Directors of Planning & Zoning and Transportation & Environmental Services. (P&Z)
3. The applicant shall report on a regular basis to Planning & Zoning staff, to the satisfaction of the Director, regarding the process, costs, and responsibility for paying for utility relocation until such time as the issue is resolved. (P&Z)
4. No accessory structures, including HVAC ground unit(s), shall be located on either side of the proposed dwelling. HVAC ground unit(s) may only be located to the rear of the dwelling. (P&Z)
5. A GRADING PLAN showing all improvements and alterations to the site must be approved by T&ES prior to issuance of a building permit. (T&ES)
6. The applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
7. An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet. An erosion and sediment control bond shall be posted prior to release of the grading plan. (T&ES)
8. If construction of the residential unit results in land disturbing activity in excess of 2500 square feet, the applicant is required to comply with the provisions of Article XIII of the City's Zoning Ordinance for stormwater quality control. (T&ES)
9. 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)
10. A new curb cut must be approved by T&ES prior to release of the grading plan. (T&ES)
11. All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)

12. A Landscape Plan consistent with the Alexandria Landscape Guidelines, must be submitted with the Grading Plan and approved by RP&CA prior to issuance of a building permit. The Landscape Plan shall include protection and preservation of the existing street tree on East Howell Avenue. (RP&CA)

STAFF: Barbara Ross, Deputy Director, Department of Planning and Zoning;
Nathan Randall, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 A GRADING PLAN showing all improvements and alterations to the site must be approved by T&ES prior to issuance of a building permit. (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 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet. An erosion and sediment control bond shall be posted prior to release of the grading plan. (T&ES)
- R-4 If construction of the residential unit(s) result in land disturbing activity in excess of 2500 square feet, the applicant is required to comply with the provisions of Article XIII of the City's Zoning Ordinance for stormwater quality control. (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 New curb cut must be approved by T&ES prior to release of the grading plan. (T&ES)
- R-7 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)
- C-1 Roof, surface and sub-surface drains be connected to the public storm sewer system, if available, by continuous underground pipe. Where storm sewer is not available applicant must provide a design to mitigate impact of stormwater drainage onto adjacent properties and to the satisfaction of the Director of Transportation & Environmental Services. (Sec.8-1-22)
- C-2 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3)
- C-3 Pay sanitary sewer tap fee prior to release of Grading Plan. (Sec. 5-6-25)
- C-4 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-3-61)
- C-5 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.

Code Enforcement:

- 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 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-7 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-8 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.

Health Department:

- F-1 No Comment

Parks and Recreation:

- R-1 A Landscape Plan consistent with the Alexandria Landscape Guidelines, must be submitted with the Grading Plan and approved by RP&CA prior to issuance of a building permit. The Landscape Plan shall include protection and preservation of the existing street tree on East Howell Avenue. (RP&CA)

C-1 Property owner shall control weeds along public sidewalks, curb lines and within tree wells which are within 12 feet of the owners front property line. (City Ord. No. 2698, 6/12/82, Sec. 2; Ord. No. 2878, 11/12/83, Sec. 1)

Police Department:

F-1 The Police Department has no objections to the parking reduction and modification.



APPLICATION SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2009-0059

PROPERTY LOCATION: 516A E. Howell Ave., Alexandria, VA 22301

TAX MAP REFERENCE: 035.03 Block 03 Lot 13 **ZONE:** RB

APPLICANT:

Name: Douglas Drabkowski

Address: 6828 Stoneybrooke Lane, Alexandria, VA 22306

PROPOSED USE: Single family detached home

THE UNDERSIGNED, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article IV, Section 4-1404(D)(7) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Director of Planning and Zoning on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Douglas Drabkowski
Print Name of Applicant or Agent
6828 Stoneybrooke Lane
Mailing/Street Address
Alexandria, VA 22306
City and State Zip Code

Signature
9/16/09 Date
703-861-0533 Telephone # Fax #
heelgeorge@aol.com Email address

ACTION-PLANNING COMMISSION: _____ **DATE:** _____
ACTION-CITY COUNCIL: _____ **DATE:** _____

PROPERTY OWNER'S AUTHORIZATION

As the property owner of _____, I hereby
(Property Address)
 grant the applicant authorization to apply for the _____ use as
(use)
 described in this application.

Name: _____
Please Print

Address: _____

Signature: _____

Phone: _____

Email: _____

Date: _____

1. **Floor Plan and Plot Plan.** As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

Required floor plan and plot/site plan attached.

Requesting a waiver. See attached written request.

2. The applicant is the *(check one)*:
 Owner
 Contract Purchaser
 Lessee or
 Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.

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

[] Yes. Provide proof of current City business license

[] No. The agent shall obtain a business license prior to filing application, if required by the City Code.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)

Request reduction to one parking space instead of two, due to narrow lot, location of tree at front of lot, and location of neighbor's house on the righthand (east) property line.

Request modification of side yard setbacks due to location of neighbor's house on righthand (east) property line.

Applicant intends to build a detached, single-family home.

There are no easements or other restrictions on the lot, however, underground utility lines were illegally run across Applicant's lot, and will need to be moved by adjoining neighbors.

NOTE: City will not allow removal of existing street tree at front of lot.

USE CHARACTERISTICS

4. The proposed special use permit request is for (check one):
[] a new use requiring a special use permit,
[] an expansion or change to an existing use without a special use permit,
[] an expansion or change to an existing use with a special use permit,
 Other. Please describe: Reduction of parking space

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect?
Specify time period (i.e., day, hour, or shift).

N/A--intended use is single-family home

B. How many employees, staff and other personnel do you expect?
Specify time period (i.e., day, hour, or shift).

N/A

6. Please describe the proposed hours and days of operation of the proposed use:

N/A--Intended use is single --family home
Day: _____ Hours: _____

7. Please describe any potential noise emanating from the proposed use.

A. Describe the noise levels anticipated from all mechanical equipment and patrons.
N/A

B. How will the noise be controlled?
N/A

8. Describe any potential odors emanating from the proposed use and plans to control them:

N/A

9. Please provide information regarding trash and litter generated by the use.

A. What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers)

Typical of a single-family home

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)

Typical for a single-family home

C. How often will trash be collected?

As per City schedule

D. How will you prevent littering on the property, streets and nearby properties?

N/A

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

[] Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

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11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of nearby residents, employees and patrons?

N/A

ALCOHOL SALES

13.

A. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

PARKING AND ACCESS REQUIREMENTS

14. A. How many parking spaces of each type are provided for the proposed use:

- 1 Standard spaces
- Compact spaces
- Handicapped accessible spaces.
- Other.

<p>Planning and Zoning Staff Only</p> <p>Required number of spaces for use per Zoning Ordinance Section 8-200A <u> </u></p> <p>Does the application meet the requirement?</p> <p style="text-align: center;">[] Yes [] No</p>
--

B. Where is required parking located? (check one)

on-site

off-site

If the required parking will be located off-site, where will it be located?

PLEASE NOTE: Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

C. If a reduction in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning Ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

Parking reduction requested; see attached supplemental form

15. Please provide information regarding loading and unloading facilities for the use:

A. N/A
 How many loading spaces are available for the use? N/A

<p>Planning and Zoning Staff Only</p> <p>Required number of loading spaces for use per Zoning Ordinance Section 8-200 <u> </u></p> <p>Does the application meet the requirement?</p> <p style="text-align: center;">[] Yes [] No</p>

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B. Where are off-street loading facilities located? N/A

C. During what hours of the day do you expect loading/unloading operations to occur?
N/A

D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?
N/A

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?
N/A

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes No
Do you propose to construct an addition to the building? Yes No
How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?
0 sq. ft. (existing) + 900 sq. ft. (addition if any) = 900 sq. ft. (total)

19. The proposed use is located in: (check one)
 a stand alone building
 a house located in a residential zone
 a warehouse
 a shopping center. Please provide name of the center: _____
 an office building. Please provide name of the building: _____
 other. Please describe: _____

End of Application

SUP # 2009-0059



APPLICATION - SUPPLEMENTAL

PARKING REDUCTION

Supplemental information to be completed by applicants requesting special use permit approval of a reduction in the required parking pursuant to section 8-100(A)(4) or (5).

1. Describe the requested parking reduction. (e.g. number of spaces, stacked parking, size, off-site location)

Request reduction of parking to one space.

2. Provide a statement of justification for the proposed parking reduction.

The combination of the narrow lot size, the location of the righthand (east) neighbor's house on the property line, and the location of a tree at the front (i.e., point of entry) to the lot does not allow two parking spaces.

3. Why is it not feasible to provide the required parking?

The City will not permit the removal of the tree at the front of the lot, and the righthand (east) neighbor will not allow the construction of an attached or semi-detached dwelling. LOCATION OF TREE PRECLUDES TANDEM PARKING OPTION.

4. Will the proposed reduction reduce the number of available parking spaces below the number of existing parking spaces?

____ Yes. X No.

5. If the requested reduction is for more than five parking spaces, the applicant must submit a **Parking Management Plan** which identifies the location and number of parking spaces both on-site and off-site, the availability of on-street parking, any proposed methods of mitigating negative affects of the parking reduction.

6. The applicant must also demonstrate that the reduction in parking will not have a negative impact on the surrounding neighborhood.



Photo showing DOM/VER utility line location feeding neighbor (514) house. Board against 518 house shows how far back utility is buried on 516A E. Howell



Photo showing DOM/VER red line as well as GAS line crossing 516A property



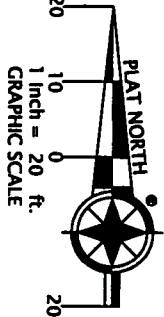
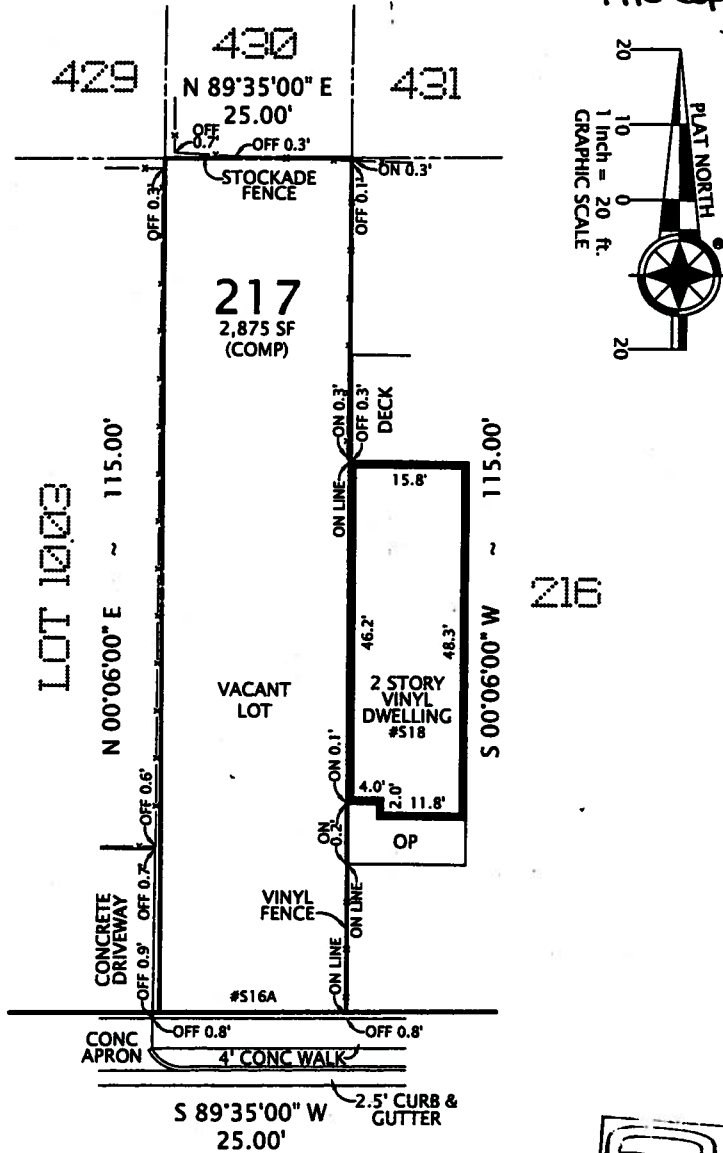
Photo of rear tree on neighbor's property that provides some crown coverage on 516A E. Howell

24

BZA 2009-0020

NOTES: 1. FENCES ARE FRAME UNLESS NOTED.

File Copy



EAST HOWELL AVENUE

40' WIDE

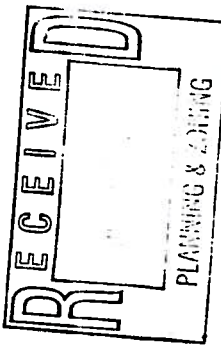
PLAT
SHOWING
LOT 217

DEL RAY

(DEED BOOK O-4, PAGE 402)

CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20' JULY 3, 2008



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CERTIFIED CORRECT:

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A TITLE REPORT WAS NOT FURNISHED.
NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
 07/03/2008
 GEORGE M. O'QUINN
 LICENSE NO. 2069
 LAND SURVEYOR
George M. O'Quinn

ORDERED BY:
DOUG DRABKOWSKI

DOMINION Surveyors Inc.®
 8808-H PEAR TREE VILLAGE COURT
 ALEXANDRIA, VIRGINIA 22309
 703-619-6555
 FAX: 703-799-6412

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PLANNING & ZONING





67

David Kleiner & Juliann Tigert
518 East Howell Avenue
Alexandria, Virginia 22301
David: 571-236-8283 dave.kleiner@gmail.com
Juliann: 571-236-8200 juliann.tigert@gmail.com

December 7, 2009

Ms. Slack (and Mr. Randall):

You asked us to comment on the latest proposed design for 516A East Howell Avenue. We took our time with the response because there are many practical issues that have not been addressed. Issues that, due to the lack of space between the homes on our section of the block, could have significant adverse effects on the surrounding properties. While most of these issues are not within the LUC's purview, since you work closely with the subject decision makers, we wanted to include you in our correspondence.

1. Mr. and Mrs. Jones are correct (email of 11-17). **By law, Planning & Zoning must deny the requested zoning variances**, including, but not limited to, those regarding the side yards [§3-706(A)(2).]

The legal standard for zoning variances has not been met. While the applicant has a right to build on the property, the building must comply with the zoning laws. The applicant chose to buy a lot that is too small for the structure size he wants. Under Virginia law, the applicant must show a topographical impediment for a zoning variance. Desired structure size, lot size, neighboring development, and zoning laws are not topographical impediments for purposes of zoning variances.

The Virginia Supreme Court has set forth the legal requirements for zoning variances. (A) If a lot is purchased despite restrictions and a structure is purposed that requires a variance of the restrictions, the hardship is self-induced (deliberately or ignorantly) and is no basis for the granting of a variance. [246 Va. 502 (1993).] **The zoning ordinance is in the applicant's way, not a condition of the lot.** (B) The threshold question for zoning variances is: whether the effect of the zoning ordinance upon the property interferes with all reasonable beneficial use of the property taken as a whole. [267 Va. 756 (2004).] **The applicant can avoid the hardship by purposing a smaller structure.**

2. **The lot does not qualify for development since the lot does not satisfy the mandatory area and width requirements under §12-402, regarding the development of substandard residential lots.** While the lot clearly does not satisfy §12-402(A)(2), the lot also does not satisfy both requirements under §12-402(A)(1), given that the lot, with an area of 2875 square feet, does not contain the lot area exhibited by more than 50 percent of the developed lots on the block face.

3. **The need to drastically reduce the side yards has not been met, as no topographical or other impediment (e.g. building standard or fire code) prevents the**

narrowing of the proposed structure to meet at least the minimum setback requirement on both side yards. Per §3-706(A)(2)(a), the side yard setback for a RB zoned lot is 1:3 (a ratio of setback to height) or 8 feet minimum. Thus, according to the law, the 27-foot tall structure will require 9-foot setbacks. The applicant has not provided any reasonable, practical, physical, or legal basis for setback reductions.

4. **The request for reduced parking will have an undue adverse effect on the entire 500 block and, thus, must be denied as contrary to consideration factors such as those under §11-504(B)(10).** The request is inconsiderate of the applicant and demonstrates a lack of situational awareness. By not meeting this requirement, the applicant will add to the daily struggle for parking on the block. On the 500 block, most residential units do not have or have only one-car off-street parking. So not only do neighbors compete among themselves for parking, but also with the patrons and employees of the businesses along Route 1. Off-street parking will only get worse with the development of Potomac Yard, adjacent to the 500 block. East Howell, a substandard-width street, has also become overburden with Route 1 traffic, which is hampered by the off-street parking. There have been discussions with the City to reduce off-street parking even further on the 500 block to help alleviate traffic hazards.

5. **The special-use-permit application must be denied because it is incomplete and fails to give adequate details for proper and just adjudication.** The application is incomplete according to the following:

a. §11-503(2): the application does not include a map of the property in question and the properties within 300 feet of the boundaries. The spatial constraints cannot be fully understood because the proposed design does not accurately depict the structure on 516 or the structure on 2000 Jefferson Davis Highway. Also, doing so would enable decision makers to visualize a de facto standard of maintaining open space to the east side of the property with a structure on the west side of the property.

b. Drainage. By default the land-locked lot drains five lots. The application does not include information regarding drainage remediation, preventing consideration of factors regarding flood hazards to adjacent properties, such as those under §11-504(B)(7).

c. Utilities. The application does not include information regarding remediation of existing utility lines and placement of new lines, preventing consideration of factors regarding interference with utilities, such as those under §11-504(B)(9).

6. **The proposed plan also fails the Infill Regulations either as including prohibited elements or fails to address at all, as follows:**

a. §7-202(A)(7) prohibits open stairs that reduce the side yard setback to less than 5 feet. See stairs on east wall of proposal.

b. §7-2307(A) requires a minimum of 25% tree canopy coverage. Given the spatial constraints, the proposal needs to depict the canopy not only to demonstrate that this requirement can be met, but also to show the trees' locations so as not to adversely effect neighboring property.

c. The proposal and any resulting special use permit must depict accessory uses

and structures according to §§7-100 thru 7-202, or state that none will be added. This is the only way to determine that related regulations can be met given the spatial restraints, and prevent future violations of regulations and potential adverse effect on the neighboring properties.

d. §7-202(B)(5) requires air conditioning equipment to produce less than 55dB noise. This equipment, also, needs to be depicted on the proposal and identified by make and model, so as to prevent adverse effects on neighboring property given the spatial constraints.

7. Since the proposed driveway appears to dominate the front yard, the special use permit must require a driveway of parallel strip pavers with a green space center. The special use permit must also address the construction standards for such a driveway. The City's engineer has been previously consulted on similar matters, and can provide standards.

8. Any special use permit regarding 516A must not reference SUP 2001-0066, as the City's position regarding the street tree renders any discussion of 516A in SUP 2001-0066 moot.


As history has taught us due diligence must be practiced and the letter of the law must be followed, or the results will be a mere wish list that is not enforceable.

We want to see this matter resolved to the satisfaction of all parties; however, we will not be silent when legitimate concerns are not given due consideration and respect, or the City acts without proper legal authority.

Thank you for your time and attention to this matter.

-David Kleiner
-Juliann Tigert



Re: Fw: 516-A East Howell Avenue 
Barbara Ross to: dave.kleiner, Juliann Tigert
Cc: Nathan Randall
This message is digitally signed.

01/19/2010 02:56 PM

Dear Mr Keiner and Ms. Tigert:

In response to your recent email, we are glad to respond to the issues you raised in your December 7, 2009 letter to Ms. Slack. While it was also copied to Mr. Randall, of Planning and Zoning, we did not understand that you expected a response from us. Your earlier letter is part of our file material and will be forwarded to the Planning Commission with our staff report and recommendation, as will this response.

With regard to our thinking about this application, what we stated at the Del Ray Land Use Committee meeting last week is that we believe the latest design for the house is much improved over the earlier ones. Its massing and architecture are similar to the size and appearance of your adjacent house and, overall, allows the new structure to fit in with the other houses on the block in a much more compatible fashion than the earlier proposals. We are troubled by the very small side yards in this case and recognize the concerns of the adjacent neighbors. We have studied other yard dimensions in the area in an effort to determine whether requiring additional yard area will make for a more successful new house at this location. Our final recommendation will be part of our staff report which is scheduled to be delivered to the Planning Commission on January 22, 2010. Copies will be made available to the public, including on the Planning and Zoning website, very shortly thereafter.

Your December letter raises a series of legal questions with regard to the proposed new dwelling at 516A East Howell Avenue. However, the variance and substandard lot requirements which you cite are not applicable in this case. First, the lot is in the RB zone and was platted prior to 1951. As such, it falls within the grandfathering for lots under section 3-707(B) of the zoning ordinance which provides:

...[I]f the lot was recorded prior to December 28, 1951, the lot may be developed with a single-family dwelling and accessory structures at the lot size shown on the plat.

Under this language, we have determined that the applicant is entitled to construct a single family home on the subject property. A similar analysis attended the SUP application for your own house in 2001. It contains precisely the same square footage (2875 sf) and has the identical dimensions (25' wide and 115' deep) as the subject lot. A single family home was permitted to be built in the case of your lot, under section 3-707(B), because it too was platted prior to 1951. In both cases, one house is allowed, despite the fact that the lot size, lot width and frontage, does not comply with zoning, all as a result of the grandfathering.

As with the approval of SUP #2001-0066 which allowed the development of your house, once we have determined that a single family home is permitted, we try to work with the applicant to

find a design and construction solution that is reasonable for a property owner and that does not unduly impact adjoining as well as nearby neighbors. As with your case, it is usually issues of parking and yards that are difficult on smaller than anticipated lots. In this case, the requested modification for the side yards falls within the site plan modification rule of section 11-416(A)(1) which provides:

(A) *Modification of zoning regulations.*

(1) In approving a site plan under the provisions of this section 11-400, the planning commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements imposed by this ordinance for the zone or zones applicable to the land depicted in the site plan if the planning commission determines that such modification is necessary or desirable to good site development, that specific and identified features of the site design make up for those impacts otherwise protected by the regulations for which modification is sought and that such modification will not be detrimental to neighboring property or to the public health, safety and welfare.

The City has long permitted SUP cases, such as ones for parking reductions, to also be considered site plan cases for the purpose of this rule, and has granted modifications in the single family context on many occasions over time, including allowing the side yard modification in the case of 518 East Howell Avenue, which allowed your house to be built with no side yard on the west side of the lot.

We disagree with your assertion that the prior SUP case, SUP #2001-0066 is irrelevant here. It serves as precedent for allowing this application to be reviewed pursuant to the process it is following now. We note that your letter raises several good questions regarding some details of the construction and future use of the property, including issues of drainage, parking space materials, tree coverage and accessory structures. We too are concerned with these issues and are addressing them specifically in our staff report and conditions.

Please do not hesitate to contact us if you need additional information.

Very truly yours,

Barbara Ross
Deputy Director
Planning and Zoning
(703)746-3802

Nathan Randall

----- Forwarded by Nathan Randall/Alex on 01/13/2010 10:07 AM

01/13/2010 10:08:03 AM

From: Nathan Randall/Alex
To: Barbara Ross/Alex@ALEX
Date: 01/13/2010 10:08 AM
Subject: Fw: 516-A East Howell Avenue

----- Forwarded by Nathan Randall/Alex on 01/13/2010 10:07 AM -----

516-A East Howell Avenue

Juliann Tigert to: nathan.randall

01/13/2010 10:06 AM

Good morning,

We understand that the subject property is on the agenda for the DRCA LUC meeting tomorrow night.

As we will not be able to attend and we have not received a response from your office, we are inquiring as to two of the items on our December 7th letter.

What is the staff's position regarding the latest proposal?

What is the staff's position regarding the legal arguments against development (i.e., lot size does not warrant zoning variances under Virginia law and the lot does not meet the requirements of §12-402)?

Thank you.

Juliann Tigert
David Kleiner



"Jones Robert J Mr
NGA-PREI USA CIV"
<Robert.J.Jones@nga.mil>
11/17/2009 10:58 AM

To <nathan.randall@alexandriava.gov>
cc <jeffrey1118@aol.com>
bcc

Subject 516A SUP

History:  This message has been forwarded.

Nathan:

My wife and I are opposed to the application for a Special Use Permit for 516A. East Howell Avenue to construct a single family detached home, allow for a reduction of the required off-street parking, and a reduction of the required side setback.

Parking is already ridiculously atrocious in the 500 block of E. Howell Avenue. All day, every day, employees and patrons of the businesses along Route 1 regularly occupy the few available parking spaces on E. Howell Avenue. E. Howell Avenue is also overburdened with traffic because it serves as the main thoroughfare from Del Ray to Route 1.

The proposed reduced side setback will introduce fire and safety issues, change the character and integrity of the surrounding neighborhood, and negatively impact our quality of life. We believe it violates our rights to privacy to allow this construction so close to our home.

The property is not exceptionally narrow, nor does it have an exceptional size or shape which existed before the ordinance came into effect. The subject property does not have exceptional topographic conditions or some other extraordinary situation or condition which is unlike other properties in the immediate vicinity. There is no particular condition, situation, or development on the property immediately adjacent to the subject property which affects the subject property's ability to comply with the regulations the owner is seeking a variance from.

Sincerely,

Robert Jones

516A E. Howell Avenue photos of utilities to neighbor properties

heelgeorge to: Barbara.Ross, Nathan.Randall

12/10/2009 08:43 AM

Cc: dreamingtime

Nathan and Barbara -

As requested, please find attached photos which show the path taken by underground utilities servicing 516 and 518 E. Howell Avenue.

- Three photos show the path (black parallel lines) of the Dominion Electric power cable which crosses the front of the 516 property, under their driveway with a semicircle path around 516A (at its widest about 12 ft from the property line) to approximately the middle of the side of 516 house.
- One photo shows the path (yellow dashed line) of the underground gas line from the street to the 518 house which traverses about 4 feet from the property line onto the 516A property.



Let me know if you have any questions. Thanks. Doug Drabkowski DSCN0522.JPG DSCN0523-1.JPG



DSCN0526.JPG DSCN0528.JPG

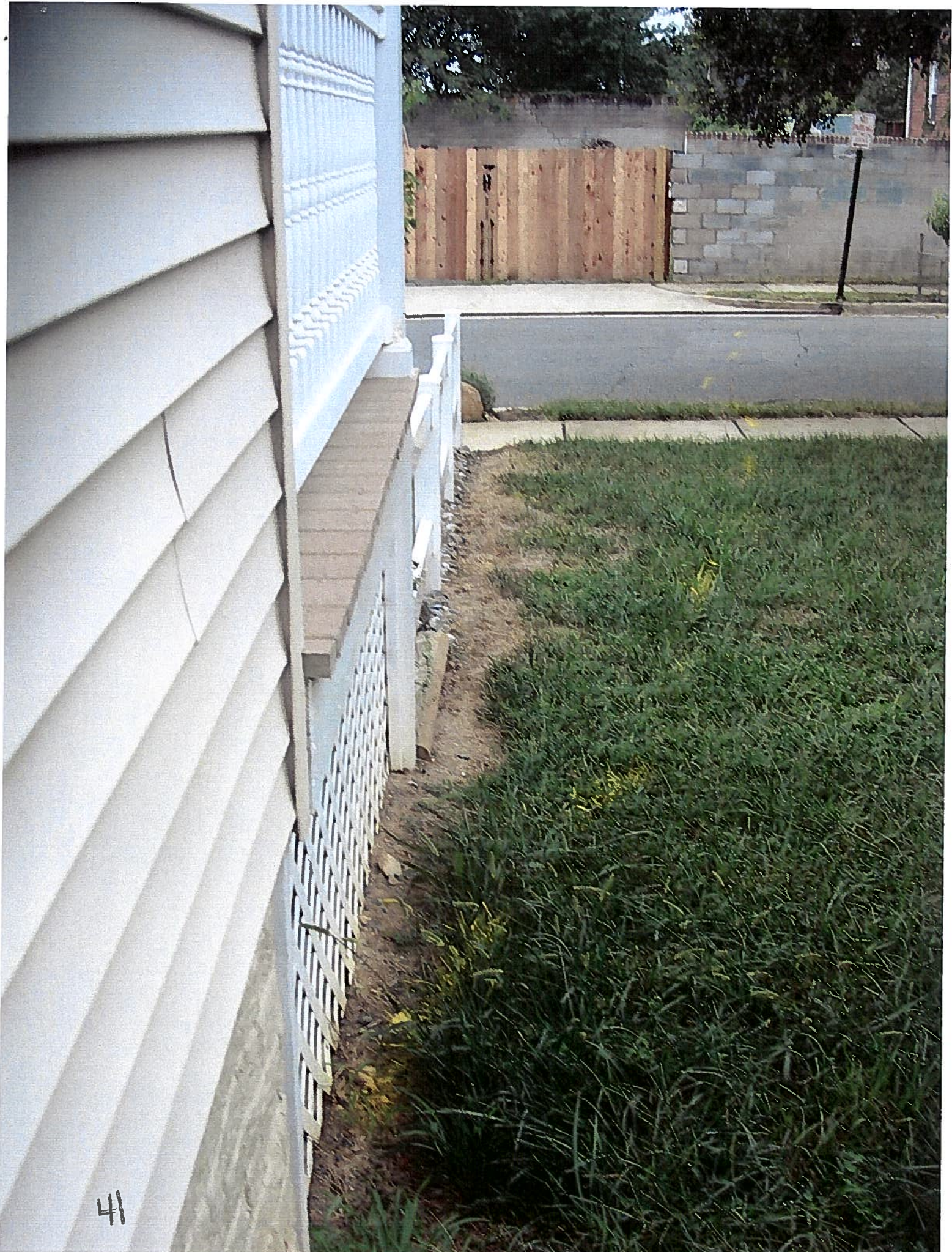


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