

Docket Item # 13
VACATION #2003-0004

Planning Commission Meeting
December 2, 2003

ISSUE: Consideration of a request for vacation of a public alley.

APPLICANT: Brett Rugo
by Gaver Nichols, agent

LOCATION: 116 West Alexandria Avenue

ZONE: R-5/Residential

STAFF RECOMMENDATION: Staff recommends **denial** of the vacation request. However, if the application is approved, staff recommends that the approval be subject to compliance with all applicable codes and ordinances and the permit conditions found in Section III of this report.

PLANNING COMMISSION ACTION, DECEMBER 2, 2003: On a motion by Mr. Komoroske, and seconded by Mr. Dunn, the Planning Commission deferred the request on a vote of 7 to 0.

Summary:

The Planning Commission expressed concern about vacating the alley to allow the applicant to build a private driveway. The Planning Commission deferred the request and asked staff to investigate the feasibility of accessing the rear of both the applicant's and adjacent owner's properties from Braddock Road without having to use the subject alley, and to verify if the applicant can improve the subject alley to gain vehicular access without having to vacate it.

Speakers:

Brett Rugo, the applicant spoke in support of the application. Vacating the alley would allow him to install a driveway to access the back of his property where he is proposing to build a two-car garage. Although there is another alley that borders the rear of the property, he stated that it would be difficult to access his property from it because it is narrow, overgrown, and not well lit.

Gaver Nichols, the applicant's architect, spoke in support of the application. He discussed some of the details of the proposed garage and driveway and stated that not vacating the alley would continue to be a maintenance issue for the applicant. He said that the applicant would agree to a condition to not increase the development rights of the property if the vacation were granted.

Gina DiNicolo, property owner of 118 W. Alexandria Avenue and resident at 1301 Russell Road, spoke in support of the application, and agreed to a restriction that the vacated area not increase the development potential of the lot, including that it not create a developable lot at 118 W. Alexandria.

Amy Slack, representing the Del Ray Citizens Association Land Use Committee, stated that the committee did not take a position on the application, but did discuss how the city frequently approved vacation cases.

Marilyn Doherty, resident of Del Ray, spoke in opposition of the request stating that it is important for the city to maintain its stock of undeveloped land, and that the alley area provides open space.

I. DISCUSSION

Request:

The applicant, Brett Rugo, by Gaver Nichols, architect, requests the vacation of an alley immediately to the west of 116 West Alexandria Avenue.

Site Description:

The subject area has 15 feet of frontage on West Alexandria Avenue, is 130 feet deep, and totals approximately 1,950 square feet. The alley is currently occupied by trees and tall grass, and is partially fenced off. Curb cuts on West Braddock Road and West Alexandria Avenue provide theoretical ingress and egress to the alley. The applicant's property is one lot of record, immediately east of the land area to be vacated, with 50 feet of frontage along West Alexandria Avenue, a depth of 130 feet and a lot area totaling 6,500 square feet.

Project Description:

The applicant requests vacation of an alley of 1,950 square feet. The City's vacation policy provides for the vacation of right of way equally to adjoining property owners, unless there is a waiver by one of them, in which case the entire area may be purchased by the other. The applicant proposes to consolidate half of the vacated area with his property and his neighbor on the other side of the alley property has represented her willingness and interest in acquiring the other half. (see attached letter).

Applicant's Property:

The applicant is planning an addition and renovation to his home (see attached drawings) and has approved building plans (BLD#2003-01571) for a new two story addition, all of which complies with zoning. The R-5 zoning district allows a maximum floor area ratio of .45 which would allow up to 2,925 square feet of building on the property. The floor area of the existing house is 1,231 square feet, and the floor area ratio is .19. The proposed floor area will total 2,652 square feet, with a floor area ratio of .41. As part of the renovation, the Alexandria Board of Zoning Appeals recently granted the applicant a variance to construct a new front entry that projects 5.6 feet into the front setback area. (BZA Case #2003-0046)

If the requested vacation is approved, the applicant's lot size will increase by 975 square feet, for a total 7,475 square feet. The applicant plans to build a driveway in the vacated land area and a garage in the rear yard of the house. The additional vacated land area would allow for approximately 438.75 additional square feet to be built on the property.

118 West Alexandria Avenue:

The land to the west of the alley to be vacated consists of two lots in common ownership.

The vacant lot immediately adjacent to the alley, 118 West Alexandria Avenue, is one lot of record with 45 feet of frontage on West Alexandria Avenue, 130 feet of depth, and a total lot area of 5,450 square feet. The lot is currently vacant and contains several trees. It is assessed as an unbuildable

lot because it does not meet the 50 feet lot width (at the front building line) requirement of the R-5 zone. If the alley is vacated, the lot frontage will increase to 52.5 feet, which will allow it to be occupied with a single family dwelling. With the vacated alley land, the lot at 118 West Alexandria Avenue will total 6,425 square feet, with a maximum building envelope of 2,938.5 square feet.

The current owner of the property at 118 West Alexandria Avenue purchased that lot in 1994 and also owns the adjacent property at 1301 Russell Road, at the corner of Russell Road, West Alexandria Avenue and Braddock Road. That lot contains 6,629 square feet of land. Together, both lots total 12,079 square feet, and will total 13,054 square feet if half of the vacated area is consolidated with the property. The property at 118 West Alexandria Avenue now functions as the backyard of the owner's home at 1301 Russell Road.

Assuming no additional home is built at 118 West Alexandria Avenue, and the two lots are used and considered as one, then the existing home, with a floor area of approximately 1,530 square feet, has a floor area ratio of .13. Under current conditions and zoning, 3,158 square feet of building space can be added to the existing home. If the alley is vacated, the owner could add 438.75 square feet more, for a grand total of 5,874 square feet of building permitted on the combined land area. The property owner, who is interested in acquiring half of the alley land, states that her interest in half of the vacated alley is to preserve the trees and greenery now growing there.

On November 10, 1994, the Board of Zoning Appeals denied a request for a taller than permitted fence that enclosed the rear yard of the two properties, finding no hardship in complying with the fence height limits of the zoning ordinance. (BZA#94-0038)

History:

There have been several attempts in the past to build on the substandard lot at 118 West Alexandria Avenue, each of which has failed. On October 9, 1984, and again on September 14, 1985, City Council denied a prior owner's requests to vacate the alley. On November 16, 1985, City Council denied a request for a special use permit to construct a house on the substandard lot under the substandard lot provisions of the ordinance. (SUP#1848)

In 1992, the Planning Commission recommended denial of another vacation request for the alley, again by a prior owner, stating that it "would be bad public policy. The lot is needed, it's wrong and makes this an unliveable neighborhood." Council denied the vacation request on November 14, 1992. (VAC#92-004)

Master Plan/Zoning:

The subject property is zoned R-5/Single-family, and is located in the North Ridge/Rosemont Small Area Plan.

II. STAFF ANALYSIS

Staff cannot support the proposed vacation of the alley at West Alexandria Avenue. Staff is concerned generally about vacating City properties, and this vacation case raises fundamental issues about infill development and open space because it would allow increases in the development potential and opportunities of both adjacent properties, while removing valuable green area. Most significantly in this case, the vacation of the alley will lead to the potential to develop the lot at 118 West Alexandria Avenue with an additional house, where now there is green space, trees and yard area. That effort has been attempted unsuccessfully several times in the past. For the same reasons that the proposal was denied in the 1980s, and again in the 1990s, staff recommends that the request be denied now. Although the current owner states that she is not interested in building on the lot at 118 West Alexandria Avenue, the vacated alley will make that possible for her or for future owners.

At 116 West Alexandria Avenue, there is already a plan to increase the size of the existing home. Vacating the alley will allow the addition of a driveway and a two story garage structure, which now cannot be achieved.

Here, on an already fully developed block of North Ridge, there is no need for additional development, and the vacation does not facilitate some desirable public benefit. Whether the result is an additional house or merely added floor area and a driveway, the increase in development is not warranted and should not be facilitated by the City. The unused alley land, while not currently used for city purposes, adds a valuable green buffer and visual respite to a developed block of the residential neighborhood. To allow either of these infill projects deprives the area neighbors of existing green area, the loss of which adds to the densification of a residential neighborhood.

If City Council supports the vacation request, but wishes to add restrictions, staff has provided condition language that restricts future development on the vacated area and prohibits the use of the area land to add to the development potential of the adjacent properties. In addition, staff has included a condition requiring the payment of fair market value for the land. Staff has not made a determination of the method of determining fair market value in this case (which may be significant given the additional development it allows), however, because City Council has requested that staff provide it with information about the City's longstanding and future possible valuation policies in vacation cases, and staff plans to make recommendations on the subject to Council for its December 8, 2003 meeting. If this vacation request is approved, it is recommended that the appropriate value would be determined in a manner consistent with Council's policy direction provided on December 8 for cases such as this one.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

III. PERM IT CONDITIONS

1. The applicant shall pay fair market value for the area to be vacated as determined by the Office of Real Estate Assessments. (T&ES)
2. The vacated area is to be consolidated into the adjoining properties, with a plat to be approved by the Director of Planning and Zoning prior to recordation. (T&ES)(P&Z)
3. Easements must be reserved for all existing public and private utilities within the area to be vacated. (T&ES)
4. The property owners may not construct any buildings or improvements on the vacated area other than approved perimeter fencing and may not use the vacated land area to derive any increased development rights for the lands adjacent to the vacated area. This restriction shall appear as part of the deed of vacation and shall also appear as a note on the consolidation plat, both of which shall be approved by the Director of Planning and Zoning prior to recordation. (P&Z)
5. This vacation shall not be effective until an application for vacation for the same land area is received by the owner of the adjacent property at 118 West Alexandria Avenue, indicating her agreement to the terms of these conditions and development restrictions, and including specifically a prohibition on the construction of an additional house on the land at 118 West Alexandria Avenue. (P&Z)

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- F-1 Property owner on west side of alley has rights to one half of the vacated alley and must provide letter indicating whether he will participate in the vacation or waive rights to the portion of the alley adjoining his property.
- R-1 The applicant shall pay fair market value for the area to be vacated as determined by the Office of Real Estate Assessments.
- R-2 The vacated area is to be consolidated into the adjoining property.
- R-3 Easements must be reserved for all existing public and private utilities within the area to be vacated.

Code Enforcement:

- F-1 No comments.

Police Department:

- F-1 No objections.

Real Estate Assessments:

- F-1 Value will be determined at a later date, consistent with City Council policy direction.

Recreation, Parks and Cultural Activities

- R-1 Recommend denial of vacation. This land is part of an alley system and is now open space.