

Docket Item #6
BZA Case #2024-00004
Board of Zoning Appeals
October 7, 2024

ADDRESS: 415 NORTH PATRICK STREET
ZONE: RB/TOWNHOUSE
APPLICANT: KEVIN AND MISAE ROMER

ISSUE: Variance to construct a one-story addition to the existing accessory building in the required rear yard.

CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-706 (A)(5)	Rear Yard	10.00 ft.*	0.00 ft.	7.21 ft.**

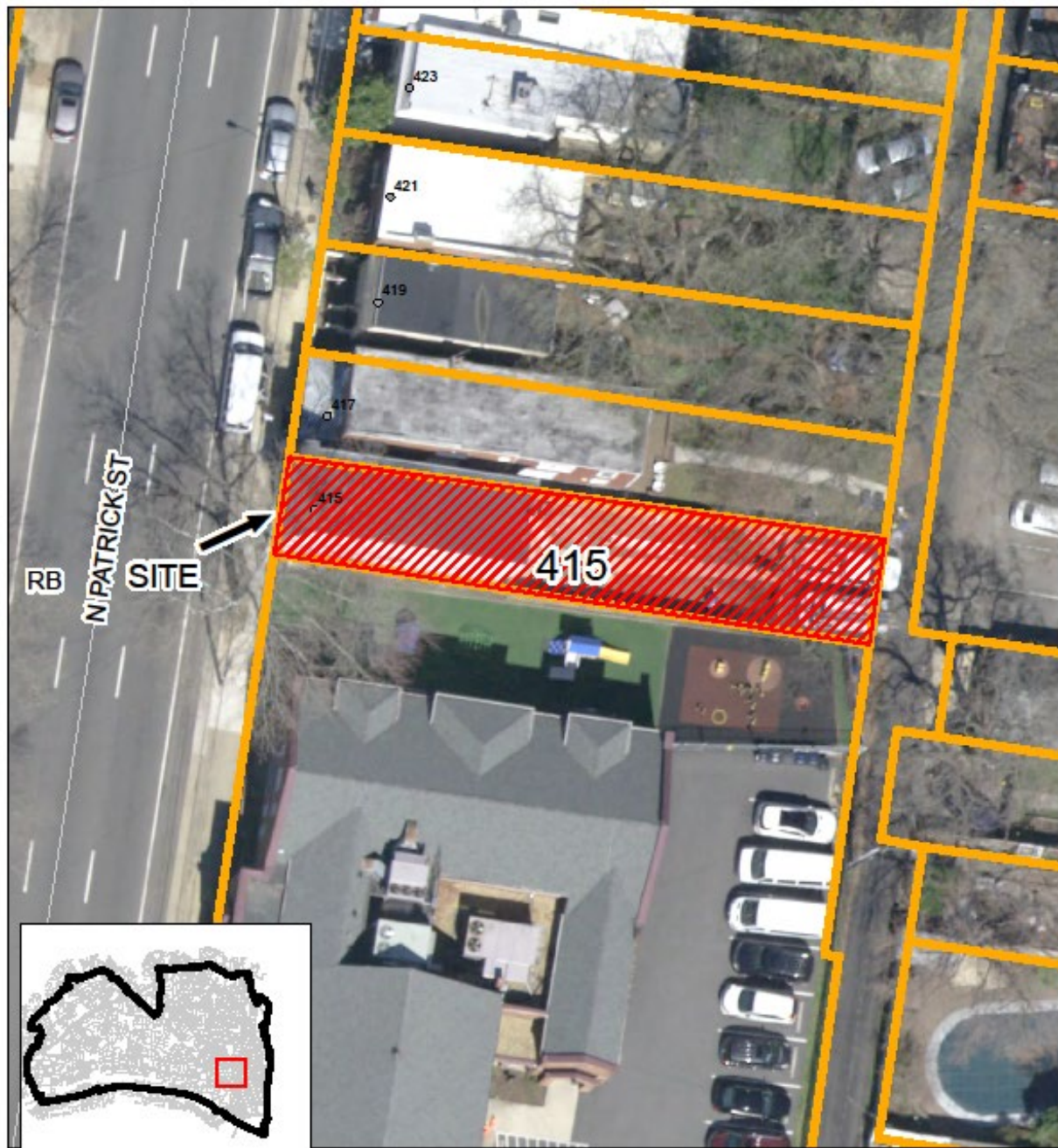
* A setback ratio of 1:1, with a minimum of 8.00 feet is required. Based on a building height of 10.00 feet measured from average finished grade to the top of the flat roof a setback of 10.00 feet is required.

** Zoning Ordinance section 7-1003 allows one-half of the width of a rear alley to be counted toward the required rear yard setback. Based on a rear alley width of 5.59 feet, 2.79 feet of alley can be counted towards the required rear yard setback.

Staff **recommends denial** of the requested variance because it does not meet the definition or standards for a variance.

If the Board decides to grant the requested variance, staff recommends the following conditions:
The proposed accessory building shall not be converted or used as a garage.

If the Board decides to grant the requested variance, it is subject to compliance with all applicable code requirements, ordinances, and recommended conditions found in the department comments. Prior to final inspection, the applicant must submit a survey plat prepared by a licensed surveyor confirming the building footprint, setbacks, and building height compliance from average final grade and certification of floor area from a licensed architect or engineer. The variances must also be recorded with the deed of the property in the City’s Land Records Office prior to the release of the building permit.



BZA #2024-00004
415 N Patrick Street



0 12.5 25 50 Feet

I. Issue

The applicant requests a variance to construct a one-story addition to the existing accessory building to be used as a garage in the required rear yard at 415 North Patrick Street.

II. Background

The subject property is one lot of record with 20.00 feet of frontage on North Patrick Street and 117.83 feet of depth. The property contains 2,357 square feet of lot area and complies with the minimum lot size, lot width, and frontage requirements of the RB zone.

The lot contains a two-story single unit detached dwelling. Real Estate Assessment Records indicate that the structure was constructed before 1891. The Sanborn Fire Insurance Maps identifies the building was used as a dwelling since its construction. The subject property is located in the Parker - Grey Historic District and is under the purview of the Board of Architectural Review.

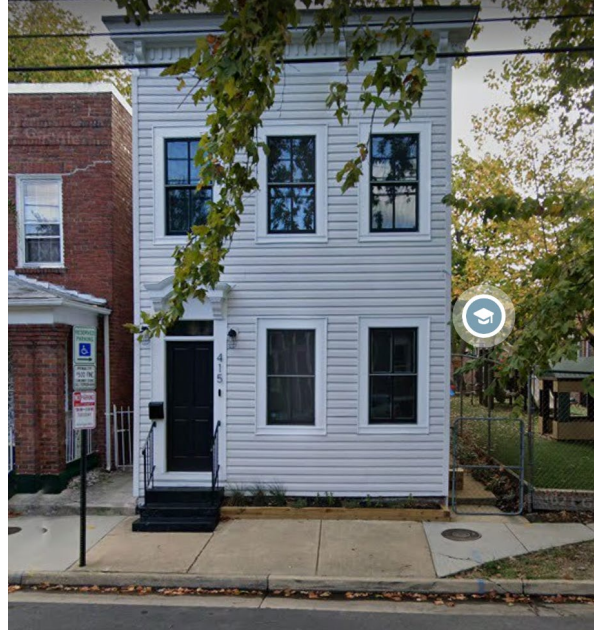


Figure 1- Subject Property

The dwelling is located 0.30 feet forward of the front property line facing North Patrick Street, 1.10 feet from the north side property line, 2.10 feet from the south side property line, and 73.00 feet from the rear property line. The current height of the existing dwelling is less than 30.00 feet to the top of the roof measured from average finished grade. Residential properties within the historic district zoned RB which are less than 25 feet wide are not required to provide a side yard setback.

According to Sanborn Fire Insurance Maps, a one-story carriage house behind the dwelling had been removed by 1921 and was replaced with a small shed. In early 2019, the property owner constructed two non-required parking spaces at the rear of the property off the alley. The existing parking pad which was installed sometime between 2018 and 2019 without any approval is not allowed as more than 50% of the required rear yard is used for parking which is not permitted under Section 7-1005. The existing accessory structure and the addition of parking at the rear of the property have not reduced the open space on the lot to less than the required 35% of the lot area.

On June 12, 2023, the Board of Zoning Appeals deferred a previous variance request to construct a two-story accessory building and garage. The staff report is included as an attachment.

On July 19, 2023, the Board of Architectural Review approved BAR2023-00277 for the construction of a six-foot fence along the rear property line and along the north side property line to the rear of the building and a ten-foot fence along the south side property line to the rear of the building.

On October 4, 2023, staff administratively approved building permit BLDR2023-00834 for the construction of a one-story accessory building which complied with zoning regulations and is currently under construction.

On November 8, 2023, staff administratively approved BAR2023-00479 to extend the existing six-foot fence along the north side of the property line to the front property line.

<i>RB Zone</i>	Required/Permitted	Existing	Proposed*
Lot Area	1,980 sq. ft.	2,357 sq. ft.	2,357 sq. ft.
Lot Frontage	50 ft.	20.00 ft.	20.00 ft.
Lot Width	50 ft.	20.00 ft.	20.00 ft.
Front Yard setback	Front lot line	Front lot line	Front lot line
Side Yard (North)	0.00 ft.	0.00 ft.	0.00 ft.*
Side Yard (South)	0.00 ft.	0.00 ft.	0.00 ft.*
Rear Yard	1:1, 8.0 ft. min./10 ft	8.90 ft.	0.00 ft.
Height	45.00 ft.	>30 ft.	10.00 ft.*
Open Space	824.95 sq. ft. (35%)	820 sq. ft.	820 sq. ft.
Floor Area Ratio (FAR)	3,535.5 sq. ft. (max) (1.5)	1,569.50 sq. ft.	1,749.50 sq. ft.
Accessory Building Definition	498 sq. ft. (max.) (1/3 of 1,496 sq. ft)	240 sq. ft.	420 sq. ft.*

*Based on the proposed accessory building

III. Description

The applicant proposes to construct a one-story addition to the existing accessory building in the required rear yard.

The proposed one-story accessory building with garage will be located 0.00 feet from the north and south side property lines in compliance with the requirements for a 20.00-foot-wide lot in the RB zone. There will be no change to the open space on the property.

The proposed one-story addition will be located 0.00 feet from the rear property line. The property abuts a 5.59-foot alley to the rear. One-half of the width of that alley can be applied to the rear yard setback. Based on a building height of 10.00 feet, measured from

average finished grade to the top of the flat roof and applying one-half of width of the rear alley, the applicant is requesting a variance of 7.21 feet to construct the accessory building on the rear property line.

The addition is 180 square feet, which would make the total square footage of the accessory building 420 square feet.

IV. Master Plan/Zoning

The subject property is currently zoned RB/Townhouse. Prior to June 24, 1992, the subject property was zoned RB/Townhouse. The Braddock Road Metro Station Small Area Plan identifies the property for residential use.

V. Requested Variances:

Rear Yard 3-706(A)(5)

The RB zone requires a rear yard based on a height to setback ratio of 1:1 with a minimum of 8.00 feet. Section 7-1003 allows rear yards abutting alleys to apply one-half the width of an alley to the required rear yard setback. According to survey records provided by the applicant the width of the alley is 5.59 feet. The height of the proposed building is 10.00 feet; requiring a 10-foot setback less 2.79 feet, half the alley width, thus the applicant requests a variance of 7.21 square feet from the required rear yard to construct the accessory building on the rear property line.

VI. Applicants Justification for Variances

The applicant justifies the variance because the location is currently used as a parking space and the request is to turn this space into a garage. Granting the variance would leave the existing yard unchanged. The applicant states the unreasonable restriction is that half the alley is owned by the neighbor, which reduces the width of the alley to contribute to the rear setback.

VII. Analysis of Variance Definition

Per Zoning Ordinance Section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the definition of a variance per Zoning Ordinance Section 2-201.1 as follows:

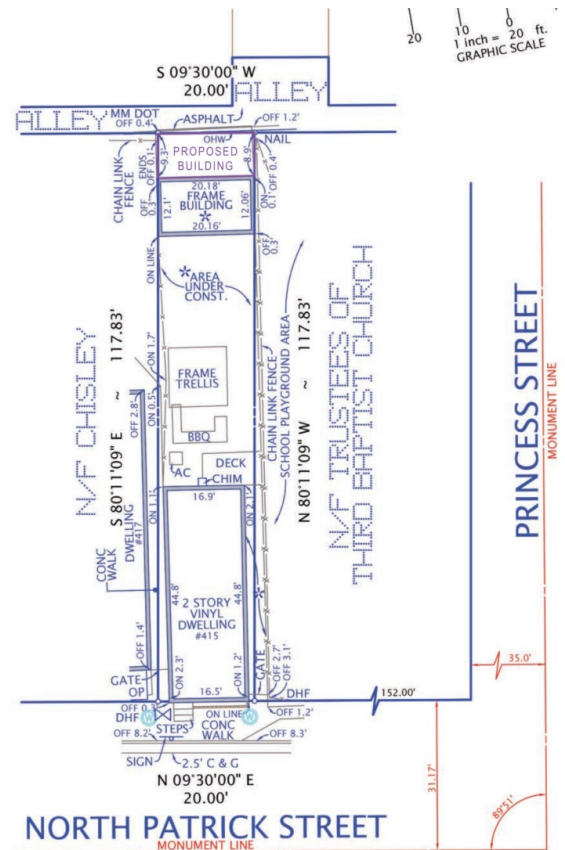


Figure 2: Proposed site plan

- a. The request is a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure.

The request is not a reasonable deviation from the setback requirement because construction of the building would eliminate the rear setback entirely. Additionally, because this is as an accessory building it is not a necessary for utilization of the property, as the property already has a single-unit dwelling and accessory building located on it.

- b. Strict application of the zoning ordinance would unreasonably restrict the utilization of the property.

Strict application does not unreasonably restrict the use of the property because a larger accessory building is not a necessary structure to utilize the property. This property is already developed with a single-unit dwelling and accessory building. Further, the proposed addition could be relocated on the other side of the existing structure to meet the setback in conjunction with converting the parking pad back to open space.

- c. The need for a variance is not shared generally by other properties.

All properties in the RB zone are subject to the same rear yard setback requirements, although some properties may benefit from abutting wider alleys to the rear, while other properties have no rear alley.

- d. The variance is not contrary to the purpose of the ordinance.

The requested variance to reduce the rear yard setback is contrary to the ordinance. The RB zone requires the rear yard setback to be based on the height of the proposed structure and already allows for half of the alley to be considered as part of the setback requirement. The intent of the RB zone height to setback ratio is to allow for smaller accessory structures to be located closer to property lines whereas taller structures would require further setbacks to provide sufficient supply of light and air to the surrounding properties.

- e. The variance does not include a change in use, which change shall be accomplished by a rezoning.

The requested variances do not change the use. Accessory buildings are allowed in this zone.

VIII. Analysis of Variance Standards

A variance allows a property owner to do what is otherwise not allowed under the ordinance. Per Zoning Ordinance Section 11-1005(B) the BZA hears and decides applications for variances and any application must meet the standards under Zoning Ordinance Section 11-1103. The decisions of the BZA must be in conformance with the Zoning Ordinance; otherwise, they will be overturned by the courts. Thus, only the standards under Section 11-1100 can be considered in making a variance decision. The criteria do not include considerations like the cost or financial hardship and are therefore inappropriate. Per zoning ordinance section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the variance standards as follows:

- a. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance.

The strict application of the zoning ordinance would not unreasonably restrict the utilization of this property as a larger accessory building or garage is not necessary for the use and enjoyment of the property as an existing single unit dwelling with an accessory building. Further, no hardships related to the physical conditions of the property or improvements exist to justify relief from the standards of the zone.

- b. The property for which the variance is being requested was acquired in good faith and a hardship was not created by the applicant for the variance;

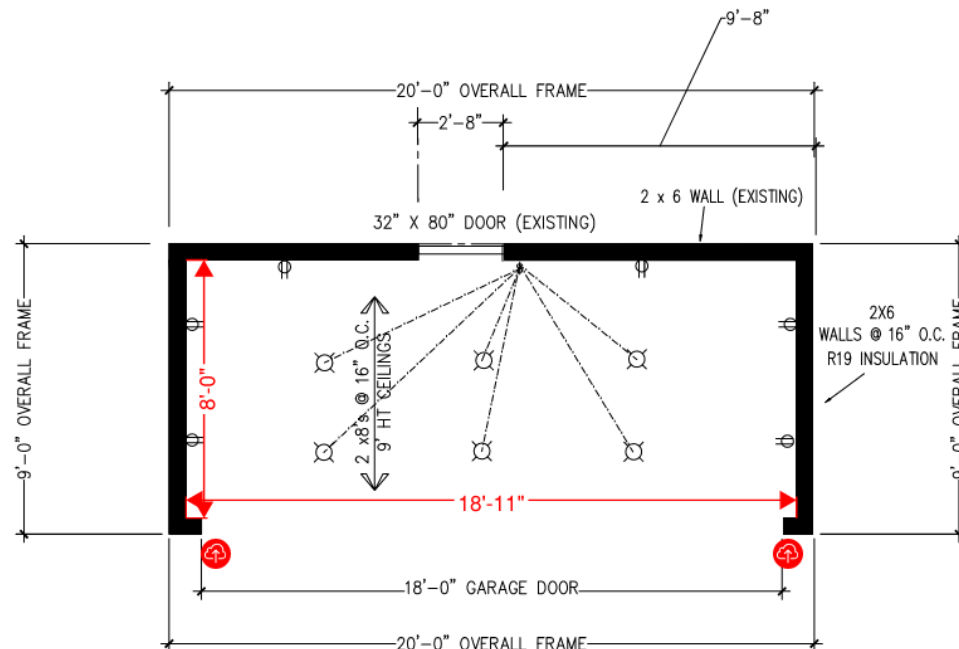
The property was likely acquired in good faith. The applicants created the hardship as the proposed expansion of the accessory building creates the need for a variance.

- c. The granting of a variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

Granting this variance will be detrimental to adjacent properties. Regardless of the use of the structure, the requested 420 square foot accessory structure adds mass and bulk to the property and would create a negative impact on the light and air supply to the adjacent property to the north.

Also, based on the survey information, there is limited vehicular access to the garage. The needed vehicle turn radius would require the applicant to cross private property and would have a detrimental impact on adjacent property owners. In addition, the garage is not deep enough to sufficiently store a vehicle. While parking is not required, the minimum parking space size per the Zoning Ordinance is 18.5 feet in length by 9 feet in width. The interior space of the proposed garage measures 18.92 feet in width and 8 feet in length, which could not accommodate a vehicle directly pulling into the garage.

If the building is not used for the storage of vehicles, then this will reduce but not eliminate the impact.



FLOOR PLAN

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

- d. The condition or situation of the property concerned is not so general or reoccurring a nature to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

The rear yard setback of the RB zone applies to all residential uses in the RB zone. Any addition in the RB zone encroaching into the rear yard setback would require a variance. A zoning text amendment would be required to change the regulation; however, this would undermine the purpose of this limitation in the Zoning Ordinance to protect light and air supply to the surrounding properties.

- e. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;

The variance request would not result in a use that is prohibited as the property will continue to contain a single-unit dwelling and accessory building.

- f. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of filing of the variance application.

The relief being requested in this case can only be granted through a variance.

IX. Staff Conclusion

In conclusion, staff **recommends denial** of the requested variance as it does not meet the definition or standards for variances as outlined above. If the Board decides to grant the requested variance, staff recommends the following condition: The proposed accessory building shall not be converted or used as a garage.

Staff

Rachel Drescher, Urban Planner, rachel.drescher@alexandriava.gov

Mary Christesen, Zoning Manager, mary.christesen@alexandriava.gov

Tony LaColla, Division Chief, Land Use Services, tony.lacolla@alexandriava.gov

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 must be approved and issued prior to the issuance of any permit for demolition, if a separate demolition permit is required. (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 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-4 Due to the proximity to the alley and the existing width of the alley, backing out of the garage and entering the garage will be challenging for a vehicle if another vehicle is stored in the garage. However, if the garage was dedicated to one vehicle, there may be enough space to maneuver within the garage. The garage must only house one vehicle at a time and allow for maneuvering space within the garage. Additionally, other objects should not be kept behind the garage within the alley to provide adequate turn around space for adjacent properties. (T&ES)
- F-4 The applicant should provide a determination of disturbed area per City Guidelines to T&ES prior to submitting for permits. If the land disturbance meets or exceeds 2500 square feet, a released grading plan will be required prior to submitting for permits. (T&ES)
- F-5 If the alley located at the rear of the parcel is to be used at any point of the construction process the following will be required:
For a Public Alley - The applicant shall contact T&ES, Construction Permitting & Inspections at (703) 746-4035 to discuss any permits and accommodation requirements that will be required.
For a Private Alley - The applicant must provide proof, in the form of an affidavit at a minimum, from the owner of the alley granting permission of use. (T&ES)
- C-1 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (T&ES)

- C-2 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. (T&ES)
- C-3 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.5-6-224) (T&ES)
- C-4 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3) (T&ES)
- C-5 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-2) (T&ES)
- C-6 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (Sec. 5-2-1) (T&ES)

Code Administration:

- C-1 A building permit is required for review.

Recreation (City Arborist):

No comments received.

Historic Alexandria (Archaeology):

- F-1 Historic maps and documents indicate that the house at 415 N. Patrick was standing by 1888 and occupied by the Millard (William) Ticer family. A decade later a shed was standing along the back of the lot along the alley. The Ticer's moved to King Street in 1899, and the house on North Patrick Street was occupied by a long series of people for the next 60 years. The property therefore has the potential to yield archaeological resources which could provide insight into residential activities in the late nineteenth- and early twentieth century in Alexandria.
- *R-1 The applicant/developer shall call Alexandria Archaeology immediately (703-746-4399) 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-2 The applicant/developer shall not allow any metal detection to be conducted on the property, or allow independent parties to collect or excavate artifacts, unless authorized by Alexandria Archaeology,

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 Sheet piling and Shoring) so that on-site contractors are aware of the requirements.

Historic Preservation

- F-1 The existing house was constructed at some point between 1877, when it does not appear on the G.M. Hopkins Atlas of Alexandria Virginia, and 1891, when it first appears on the Sanborn Fire Insurance Map.
- F-2 The alley behind the subject building, at the eastern boundary line, is private.
- F-3 This Early building is located within the Parker Gray District (PG). All exterior modifications that are visible from a public right of way are subject to the Board of Architectural Review policies and guidelines.
- F-4 Staff does not object to the proposed garage based on the fact that the size is similar to accessory structures in the vicinity and the fact that based on Sanborn Fire Insurance Maps, this property had a shed at the rear property line abutting the alley from at least 1902 through 1959.

Docket Item #3
 BZA Case #2022-00026
 Board of Zoning Appeals
 June 12, 2023

ADDRESS: 415 NORTH PATRICK STREET
ZONE: RB/RESIDENTIAL TOWNHOUSE
APPLICANT: KEVIN REAMER

ISSUE: Variance to construct a two-story accessory building in a required yard, relief from the definition of an accessory structure, and variance to exceed the floor area ratio.

CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
2-123.1	Accessory Building Definition	480 sq. ft.* (maximum)	840 sq. ft.	360 sq. ft.
3-706 (A)(5)	Rear Yard	24.00 ft.**	0.00 ft.	21.21 ft.***
3-706 (C)	Floor Area Ratio (FAR)	1,770 sq. ft.**** (maximum)	1980sq. ft.	210 sq. ft.

* An accessory building's gross floor area shall not exceed one-third of the principal building's gross floor area. Based on the principal building's gross FAR of 1,440 square feet the maximum gross FAR of an accessory cannot exceed 480 square feet.

** A setback ratio of 1:1, with a minimum of 8.00 feet is required. Based on a building height of 24.00 feet measured from average finished grade to the top of the flat roof a setback of 24.00 feet is required.

*** Zoning Ordinance section 7-1003 allows one-half of the width of a rear alley to be counted toward the required rear yard setback. Based on a rear alley width of 5.59 feet, 2.79 feet of alley can be counted towards the required rear yard setback.

**** The RB zone permits a maximum FAR of .75. Based on a lot area of 2,360 square feet a maximum FAR of 1,770 square feet is permitted.

Staff **recommends denial** of the requested variances because they do not meet the definition or standards for a variance.

If the Board decides to grant the requested variances, staff recommends the following condition:
 The proposed accessory building shall not be converted or used as a separate dwelling unit.

If the Board decides to grant the requested variance it is subject to compliance with all applicable code requirements, ordinances, and recommended conditions found in the department comments. Prior to final inspection, the applicant must submit a survey plat prepared by a licensed surveyor confirming the building footprint, setbacks, and building height compliance from average final grade and certification of floor area from a licensed architect or engineer. The variances 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.

BOARD OF ZONING APPEALS ACTION, MAY 8, 2023: On a motion by Mr. Patel, seconded by Ms. Bauman, the Board of Zoning Appeals voted to defer the requested variances due to improper notice. The motion carried on a vote of 6-0.

BOARD OF ZONING APPEALS ACTION, JUNE 12, 2023: On a motion by Mr. Wacławski, seconded by Mrs. Eveland, the Board of Zoning Appeals voted to defer the requested variances. The motion carried on a vote of 6 to 0.

Reason to defer: To allow the applicant time to revise the request to reduce the amount of relief being requested from floor area, accessory structure definition, height, working to resolve neighbors' concerns about the impact of a two-story structure to light and privacy, and to address concerns with regard to access and the turning movement.

Speakers:

Kevin Reamer, property owner, presented the case with information supporting the requested variances.

Yvonne Callahan, resident at 735 South Lee Street, spoke in opposition to the requested variances requesting for the BZA to deny all of the requested variances. Particularly Mrs. Callahan cited the access issues identified with regard to the turning radius, additional floor area, and the disproportional size of the accessory structure to the main dwelling. Mrs. Callahan refuted the applicant's justification for the variance that there used to be a carriage house on the property stating that it is unlikely that any previous accessory structure on this lot was 20ft wide and two-stories tall.

Purcell Conway, spoke of behalf of his aunt, the property owner at 417 North Patrick Street, in opposition to the requested variances. Specific concerns cited by the speaker included potential impacts to the property including casting shade and loss of privacy of with the "overshadowing" nature of the two-story structure.

Discussion:

Mr. Wacławski noted that without the proposed structure the property could still be used residentially and the applicant would have the ability to build a smaller addition in compliance with the zoning ordinance. As such the presence of other reasonable approaches to achieve some of the applicant's desires makes it difficult to support this request. In particular, Mr. Wacławski was concerned about the requested variances meeting the reasonableness standard, in particular the requested increase in floor area and overall agreed with the analysis provided by staff to recommend denial.

Mrs. Eveland agreed with Mr. Wacławski and noted there appeared to be an opportunity for more creativity to achieve the some of the applicant's goals as it relates to providing some additional space. She encouraged reworking the proposal and suggested striking a compromise between what the applicant would like to do and what the city could find reasonable. As currently presented, she was unable to grant the necessary variances but might be able to consider support if certain revisions were made.

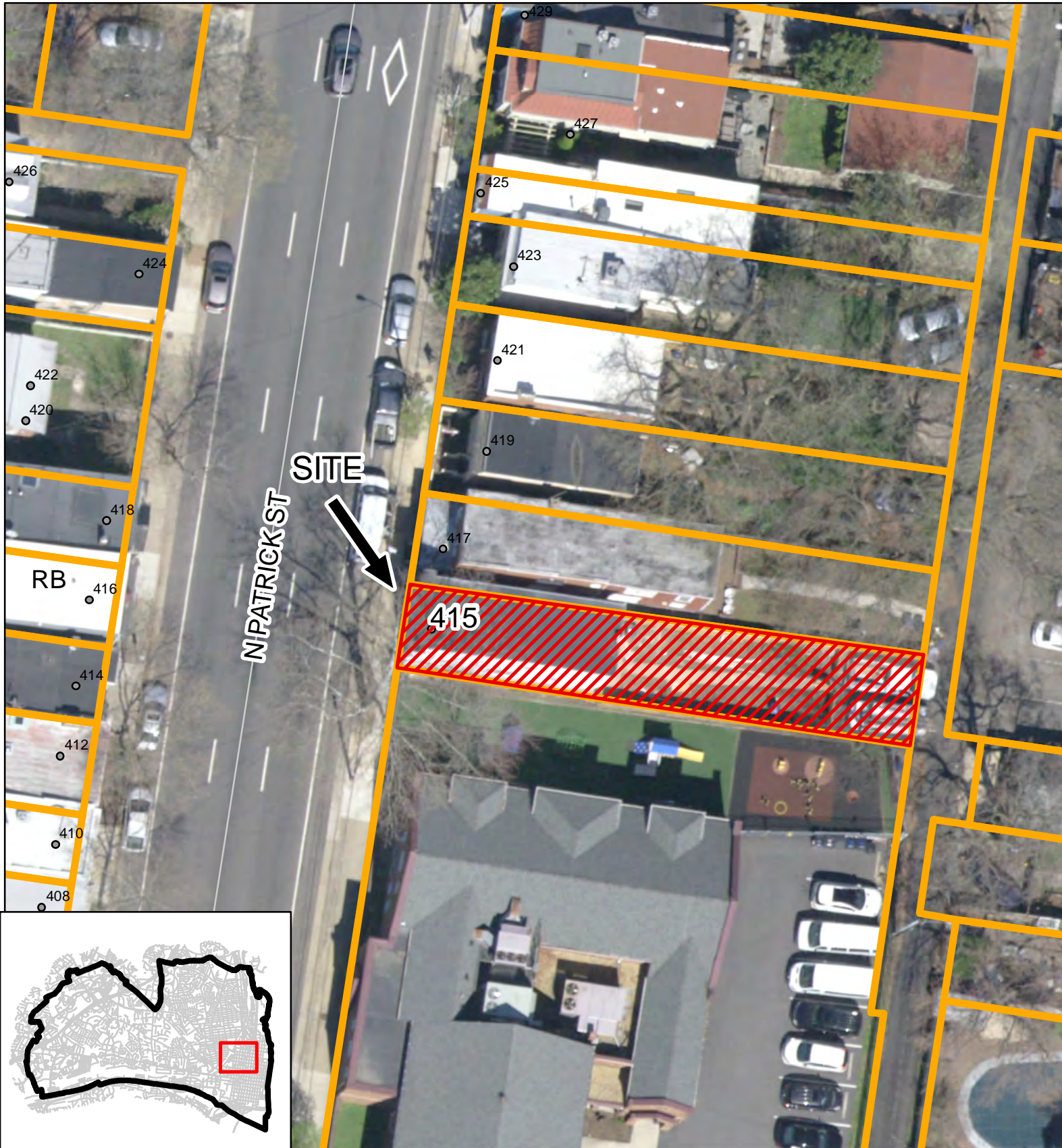
Mr. Liu did not find the applicant's argument to be compelling and indicated the applicant had not met the burden of proof to establish that this case met the standards outlined in the zoning ordinance to grant a variance. Mr. Liu noted his strong concern that if this case were approved it would set a precedent that all future requests for FAR increases would also be justifiable.

Mr. Foley empathized with the applicant regarding the need for more space with a growing family and understood the desire for a garage area. However, had concerns regarding the ability of the property owner to access the proposed garage with the narrowness of the alley and the needed turning radius. Mr. Foley also made the observation that there are very few two-story garages in the area but would be more inclined to support a one-story garage or if there must be a second story consider different architecture to accommodate the neighbors' specific concerns related to the shadow cast by the roof and removal of the exterior stair landing. Mr. Foley indicated that he could not support the application as presented.

Mr. Foley directed a question to staff with regards to whether the RB zone, in the Parker Gray Historic District, was inequitable as compared to the RM zone, located in the Old and Historic District. Mary Christesen responded that the RB zone is found throughout the city and has the same standards wherever property is zoned RB. While there are distinctions in the setbacks, FAR, and open space requirements between these zones they don't correspond exclusively to these two historic districts. There is not a specific FAR associated with the Parker Gray district.

Staff reminded the Board that a denial in this case would result in the inability of the applicant to present a substantially similar application for a year and suggested it may be preferable to ask the applicant if they wished to defer and work on amending the application to address the boards concerns.

Staff requested that the Board provide specific guidance as to how the applicant should revise this proposal. Mrs. Bauman indicated the three areas are substantial to increase FAR, accessory structure definition, and space needed for turning movement into the garage. Mrs. Eveland added the applicant should look at revising proposal to address ways to reduce the potential shadow from this structure onto neighboring properties. Mr. Foley wanted some changes in the architecture to reduce bulk and preferred to hear on the next submission from the neighbor that they were supportive of the application with a letter of support.



BZA #2022-00026
415 North Patrick Street



0 15 30 60 Feet
16

I. Issue

The applicant requests variances to construct a two-story accessory building to the rear of the dwelling in the required rear yard at 415 North Patrick Street. The proposed structure also requires relief from the accessory building definition and the maximum allowable floor area for the RB/Townhouse zone.

II. Background

The subject property is one lot of record with 20.00 feet of frontage on North Patrick Street and 117.83 feet of depth. The property contains 2,360 square feet of lot area and complies with the minimum lot size, lot width, and frontage requirements of the RB zone.

The lot contains a two-story single family detached dwelling. Real Estate Assessment Records indicate that the structure was constructed before 1891. The Sanborn Fire Insurance Maps identifies the building was used as a dwelling since its construction. The subject property is located in the Parker - Grey Historic District and is under the purview of the Board of Architectural Review.

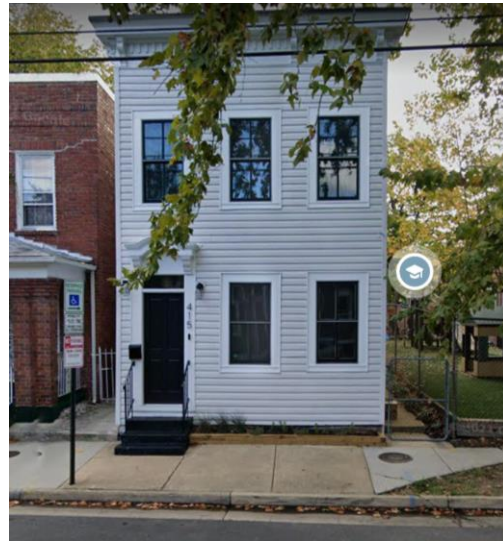


Figure 1- Subject Property

The dwelling is located 0.30 feet forward of the front property line facing North Patrick Street, 1.10 feet from the north side property line, 2.10 feet from the south side property line, and 73.00 feet from the rear property line. The current height of the existing dwelling is less than 30.00 feet to the top of the roof measured from average finished grade. Residential properties within the historic district zoned RB which are less than 25 feet wide are not required to provide a side yard setback.

According to Sanborn Fire Insurance Maps, a one-story carriage house behind the dwelling had been removed by 1921 and was replaced with a small shed. In early 2019, the property owner constructed two non-required parking spaces at the rear of the property off the alley. The existing parking pad which was installed sometime between 2018 and 2019 without any approval and is technically non-complying as more than 50% of the required rear yard is used for parking which is not permitted under Section 7-1005.

In reviewing the application materials staff identified several structures including a BBQ, trellis, shed and deck which were all constructed without Board of Architectural Review (BAR) or historic preservation staff approval. Section 10-203 of the zoning ordinance states: "No building or structure shall be erected, reconstructed, altered or restored within the Parker-Gray District unless and until an application for a certificate of appropriateness shall have been approved ..." Subsequently the applicant submitted additional information

regarding the size and height of these structures to confirm they comply with the Parker Gray Residential Reference Guide and were not subject to additional review.

The existing accessory structures and the addition of parking at the rear of the property have not reduced the open space on the lot to less than the required 800 square feet.

There are a handful of garages similar to the one being proposed located along this alley (see Exhibit A for details about the history of these structures).

Staff also conducted a thorough investigation of the private alley to the rear of this property. During this research it became clear that there was a mismatch between the width of the alley listed on the deed and the actual width in the field as measured by the applicant's surveyor. Staff strongly recommended the applicant resolve this discrepancy by conducting further title research prior to bringing the case to hearing (as demonstrated in Exhibit B of correspondence with the applicant). Within this communication staff noted that without resolution the analysis would be based solely on the information provided in the survey. The application was deemed complete as the applicant provided a survey, as required by the Zoning Ordinance, documenting the width of the alley.

RB Zone	Required/Permitted	Existing	Proposed*
Lot Area	1,980 sq. ft.	2,360 sq. ft.	2,360 sq. ft.
Lot Frontage	50 ft.	20.00 ft.	20.00 ft.
Lot Width	50 ft.	20.00 ft.	20.00 ft.
Front Yard setback	Front lot line	Front lot line	Front lot line
Side Yard (North)	0.00 ft.	1.10 ft.	0.00 ft.*
Side Yard (South)	0.00 ft.	2.10 ft.	0.00 ft.*
Rear Yard	1:1, 8.0 ft. min./24ft	73.00 ft.	0.00 ft.
Height	45.00 ft.	>30 ft.	24.00 ft.*
Open Space	800 sq. ft.	886 sq. ft.	820 sq. ft.*
Floor Area Ratio (FAR)	1,770 sq. ft. (max) (.75)	1,240.50sq. ft.	1,980* sq. ft.
Accessory Building Definition	480 sq. ft. (max.) (1/3 of 1,440 sq. ft)	0 sq. ft.	840 sq. ft*

*Based on the proposed accessory building.

III. Description

The applicant proposes to construct a two-story accessory building with garage in the required rear yard, increasing the maximum allowable floor area, and exceeding one-third of the principal building's gross floor area.

The proposed two-story accessory building with garage will be located 0.00 feet from the north and south side property lines in compliance with the requirements for a 20.00 foot wide lot in the RB zone. The proposed building and stairs will continue to comply with the requirement to provide at least 800 square feet of open space.

The proposed two-story accessory building with garage will be located 0.00 feet from the rear property line. The property abuts a 5.59 foot alley to the rear. One-half of the width of that alley can be applied to the rear yard setback. Based on a building height of 24.00 feet, measured from average finished grade to the top of the flat roof and applying one-half of width of the rear alley, the applicant is requesting a variance of 21.21 feet to construct the accessory building on the rear property line.

Further, the applicant is requesting a variance from the maximum allowable floor area. The RB zone allows a floor area ratio (FAR) of 0.75. Based on the lot area of 2,360 square feet a variance of 210 square feet is required to construct the 739.50 square foot accessory building.

Finally, the applicant is requesting a variance from the definition of an accessory building, which limits the size of an accessory building to one-third of the gross floor area of the principal structure. Based on the principal building's gross floor area of 1,440 square feet, an accessory building with a gross floor area of no more than 480 square feet is permitted. A variance of 360 square feet is required to construct an accessory building with 840 square feet of gross floor area.

IV. Master Plan/Zoning

The subject property is currently zoned RB/Residential Townhouse. Prior to [June 24, 1992+1991](#), the subject property was zoned RM/Townhouse. The Braddock Road Metro Station Small Area Plan identifies the property for residential use.

V. Requested Variances: Accessory Building 2-123.1

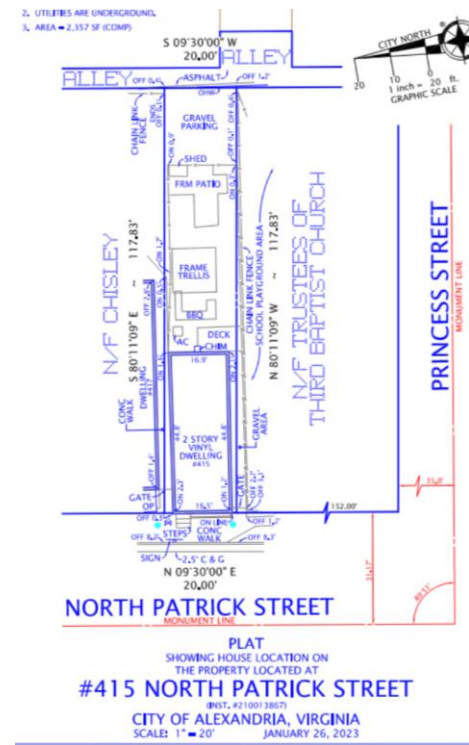


Figure 2 – Survey

The definition of accessory building limits the gross floor area of an accessory building not to exceed one-third of the principal building's gross floor area. The principal building, the dwelling, measures 1,440 square feet; therefore, the accessory building is limited to a maximum of 480 square feet by the accessory building definition. The applicant requests a variance of 360 square feet to add an accessory building measuring 840 square feet.

Rear Yard 3-706(A)(5)

The RB zone requires a rear yard based on a height to setback ratio of 1:1 with a minimum of 8.00 feet. Section 7-1003 allows rear yards abutting alleys to apply one-half the width of an alley to the required rear yard setback. According to survey records provided by the applicant the width of the alley is 5.59 feet. The height of the proposed building is 24.00 feet; requiring a 24-foot setback less 2.79 feet, half the alley width, thus the applicant requests a variance of 21.21 square feet from the required rear yard to construct the accessory building on the rear property line.

Floor Area Ratio 3-706(C)

The RB zone permits a maximum floor area ratio of 0.75. The lot area of the subject property measures 2,360 square feet; as such the maximum floor area permitted by the zone based on the lot area of the subject property is 1,770 square feet. The existing floor area on the lot is 1,240.50 square feet. The applicant requests a variance of 210 square feet to construct the proposed accessory building exceeding the permitted floor area for a total floor area of 1,980 square feet (.84).

VI. Applicants Justification for Variances

The applicant justifies the applying the rear yard setback, “would mean the gravel parking could not be improved” if “built in accordance with the zoning ordinance it would take away space from the backyard” and require a different type of variance for open space as driveways don’t count towards open space. Further, many of the properties along this alley have garages built on the rear property line.

The only justification for the requested variances to FAR and accessory building definition are related to historical Sanborn records which indicate the presence of a historical carriage house on the subject property along the rear property line. Upon research it appears this carriage house disappeared sometime between 1912 and 1921 and was subsequently replaced with smaller storage structures which disappeared sometime after 1941.

No justification beyond the presence of a historical carriage house in this location is provided to explain why a variance from the definition of accessory building should be granted.

VII. Analysis of Variance Definition

Per Zoning Ordinance Section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the definition of a variance per Zoning Ordinance Section 2-201.1 as follows:

- a. The request is a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure.

The request is not a reasonable deviation from the floor area maximum or the size limit of the definition of accessory building because a smaller accessory building could be constructed in compliance with both requirements. It is also not reasonable because the proposal is for a two-story accessory building that is nearly the height of the principal building and requires a variance of over 20.00 feet to be located on the rear property line. Further, an accessory dwelling of this size and height is not a necessary structure to utilize the property, as the property already has a single-family dwelling located on it. Additionally, variance requests that increase the floor area beyond what is allowed by the zone constitutes an increase in density which is essentially a rezoning of a property. Per the Zoning Ordinance, the Board of Zoning Appeals does not have the authority to rezone property.

- b. Strict application of the zoning ordinance would unreasonably restrict the utilization of the property.

Strict application does not unreasonably restrict the use of the property because a two-story accessory building to accommodate a garage and office is not a necessary structure to utilize the property. This property is already developed with a single-family dwelling. In addition, the proposed structure could be reduced in size, relocated to meet the setback or possibly request less relief for a one-story building, or the area could remain unimproved.

- c. The need for a variance is not shared generally by other properties.

All properties in the RB zone are subject to the same floor area maximums and rear yard setback requirements, although some properties may benefit from abutting wider alleys to the rear. The limitation of the size of an accessory building in relation to the principal building applies to all properties City wide. Thus, the need for these types of variances are shared generally by other properties, both in the RB zone and City wide.

- d. The variance is not contrary to the purpose of the ordinance.

The requested variance to reduce the rear yard setback is contrary to the ordinance. The RB zone requires the rear yard setback to be based on the height of the proposed structure and already allows for half of the alley to be considered as part of the setback requirement. The intent of the RB zone height to setback ratio is to allow for smaller accessory structures to be located closer to property lines whereas taller structures would require further setbacks.

Any increase in floor area above what is allowed by the zone is contrary to the

density prescribed for a particular zone for the zoning ordinance.

Finally, relief from the definition of an accessory building is contrary to the intent of the ordinance, which aims to make accessory buildings proportionally smaller in scale and subordinate to the principal building. Allowing a structure of this size would give the appearance of two principal buildings on the lot.

- e. The variance does not include a change in use, which change shall be accomplished by a rezoning.

The requested variances do not change the use. The uses proposed, a garage and an office, are both allowed in this zone as accessory to the dwelling unit.

VIII. Analysis of Variance Standards

Per zoning ordinance section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the variance standards as follows:

- a. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance.

The strict application of the zoning ordinance would not unreasonably restrict the utilization of this property as a garage with an office above is not necessary for the use and enjoyment of the property as an existing single-family dwelling. The standards which the applicant is seeking relief from apply equally to all properties in this zone. Further, no hardships related to the physical conditions of the lot exist to justify relief from the standards of the zone. The accessory building could be reduced in size to alleviate the need for variances for floor area and from the definition of accessory building. Additionally, it may be possible with reduced height, to construct a one-story building in compliance with the rear yard or with a lesser variance request.

- b. The property for which the variance is being requested was acquired in good faith and a hardship was not created by the applicant for the variance;

The property was likely acquired in good faith. Although, if a prospective purchaser intends to undertake work on a property, it is their responsibility to make such determinations. The mere presence of other garages along an alley is not a reliable way to determine whether such structures are allowed as zoning regulations change over time and no properties are exactly similarly situated.

- c. The granting of a variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

Granting this variance will be detrimental to adjacent properties on two counts.

The narrowness of the alley behind the subject property as shown on the survey provided by the applicant is also a concern as it relates to potential neighborhood impact. Based on the survey information provided, T&ES has determined there is insufficient access and turning radius to back out of the proposed garage. The needed radius would require the applicant to cross private property and would have a detrimental impact on adjacent property owners.

The two-story nature of the requested structure so close to the property line presents other potential impacts to neighboring properties, including a reduction of light and air. Finally, granting additional floor area above what is allowed in the zone and allowing an accessory building that is not subordinate to the principal structure results in higher density for the neighborhood and will change the development pattern and character of the neighborhood.

Further, while similar structures are present in the neighborhood (see Exhibit A for details) whenever new structures are proposed they are required to comply with current regulations of the zone which in this case do not support the size, height, and proximity to the rear property line.

The height, size and location of the proposed addition would impact the light and air supply to adjacent properties.

- d. The condition or situation of the property concerned is not so general or reoccurring a nature to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

The existing dwelling conforms to the density and lot requirements of the RB/Townhouse zone.

Staff finds the condition and situation to be general and of a reoccurring nature, as it is shared by other properties in this zone and across the City. A zoning text amendment would be required to change these regulations, but because of the reoccurring nature throughout the zone and the City it is not reasonably practicable to amend the ordinance in context with these variance requests and to do so would undermine several important limitations in the Zoning Ordinance.

- e. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;

The variance requests would not result in a use that is prohibited as the property will continue to contain a single-family dwelling. Granting the variance for an

increase in floor area would allow the property to exceed the maximum permitted by the RB zone. Because other zones allow for higher FARs than the RB zone, granting the variance would effectively result in a rezoning of the subject property by increasing density. Pursuant to Zoning Ordinance section 11-1005(G), the Board is not authorized to change the zoning classification of a property.

- f. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of filing of the variance application.

The relief being requested in this case can only be granted through a variance and are not eligible for relief through a special exception process.

IX. Staff Conclusion

In conclusion, staff **recommends denial** of the requested variances as they do not meet the definition or standards for variances as outlined above. If the Board decides to grant the requested variances, staff recommends the following condition: The proposed accessory building shall not be converted or used as a separate dwelling unit.

Staff

Alexa Powell, Urban Planner, alexa.powell@alexandriava.gov

Mary Christesen, Zoning Manager, mary.christesen@alexandriava.gov

Tony LaColla, Division Chief, Land Use Services, tony.lacolla@alexandriava.gov

DEPARTMENTAL COMMENTS

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

- * The applicant is advised that if the special exception and/or variance is/are approved the following additional comments apply.

Transportation and Environmental Services:

- R-1 The building permit must be approved and issued prior to the issuance of any permit for demolition, if a separate demolition permit is required. (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 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)
- F-1 The application/applicant mentioned other garages in the area, however, it is important to note that the garages on other properties are set further into the property. These garages presumably would not present the same turning maneuvering challenges as this property's proposed plan. (T&ES)
- F-2 The location of the garage and the width of the existing alley shown on the submitted plat are inadequate for providing access to the garage and necessary turning radius to back out of the proposed garage without accessing other privately owned property.
- F-3 Backing out of the garage may result in several point turns, encroachment into the property on the opposing side of the alley, and/or impact to roadside features such as fences, utility poles, trash bins, and other devices or objects within the alley or on adjacent properties. (T&ES)
- F-4 After review of the information provided, an approved grading plan is not required at this time. Please note that if any changes are made to the plan it is suggested that T&ES be included in the review. (T&ES)
- F-5 If the alley located at the rear of the parcel is to be used at any point of the construction process the following will be required:
For a Public Alley - The applicant shall contact T&ES, Construction Permitting & Inspections at (703) 746-4035 to discuss any permits and accommodation requirements that will be required.
For a Private Alley - The applicant must provide proof, in the form of an affidavit at a minimum, from the owner of the alley granting permission of use. (T&ES)

- C-1 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (T&ES)
- C-2 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. (T&ES)
- C-3 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.5-6-224) (T&ES)
- C-4 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3) (T&ES)
- C-5 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-2) (T&ES)
- C-6 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (Sec. 5-2-1) (T&ES)

Code Administration:

C-1 A building permit is required for review.

Recreation (City Arborist):

No comments received.

Historic Alexandria (Archaeology):

F-1 Historic maps and documents indicate that the house at 415 N. Patrick was standing by 1888 and occupied by the Millard (William) Ticer family. A decade later a shed was standing along the back of the lot along the alley. The Ticers moved to King Street in 1899, and the house on North Patrick Street was occupied by a long series of people for the next 60 years. The property therefore has the potential to yield archaeological resources which could provide insight into residential activities in the late nineteenth- and early twentieth century in Alexandria.

*R-1 The applicant/developer shall call Alexandria Archaeology immediately (703-746-4399) 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-2 The applicant/developer shall not allow any metal detection to be conducted on the property, or allow independent parties to collect or excavate artifacts, unless authorized by Alexandria Archaeology,

R-3 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.

Historic Preservation

F-1 Staff has no objection to the scale and mass of the proposed accessory structure.

F-2 The existing building was constructed before 1891, when it first appears on the Sanborn Fire Insurance Map.

F-3 This early building is located within the Parker Gray District (PG). This project therefore requires Board of Architectural Review (BAR) approval of a Certificate of Appropriateness and a Permit to Demolish/Encapsulate. The applicant should consult with staff before applying to the Board.

Exhibit A – Variance requests for similar structures research

There have been several variance cases heard by the Board of Zoning Appeals in blocks surrounding North Alfred Street. The information below is intended to provide context and historical background for this applicant’s variance request.

Property Address	Variances Requested	Status of Request
410 N Alfred* (BZA6372)	Relief from required 8-foot North, South, and rear setbacks to construct a single-story garage. (1994) The applicant revised their initial proposal from a two-story garage to a single-story garage at the recommendation of the BZA.	Approved
410 N Alfred* (BZA95-0027)	Open space reduction to 360sqft and relief from the 8-foot side yard requirement to allow an existing garage to remain. (1995)	Denied
410 N Alfred* (BZA95-0046)	Open space reduction to 578sqft for an after the fact construction of a detached garage within a required yard. (1995)	Denied
404 N Alfred* (BZA1705)	Relief from lot area requirement and 16-foot side yard setback to redevelop the property. (1978)	Approved
928 Oronoco Street (BZA2000-0053)	Open space reduction to 686sqft to reconstruct an existing single-story garage. (2001)	Approved
1003 Oronoco Street (BZA5693)	Open space reduction to 640sqft to construct a single-story garage. (1988)	Approved
1001 Oronoco Street (BZA5694)	Open space reduction to 709sqft and 8 feet of relief from the side yard requirement to construct a single-story garage. (1988)	Approved
421 N Alfred (BZA875)	Relief from required 16-foot side yard setback to construct a single-story garage. (1994)	Approved

*Properties in the same block as subject property.

Exhibit B – Alley correspondence

From: George Quinn <goquinn@dominionsurveyors.com>
Sent: Friday, March 10, 2023 11:24 AM
To: Mary Christesen <Mary.Christesen@alexandriava.gov>
Cc: Derek Daniels <ddaniels@dominionsurveyors.com>
Subject: RE: 415 N Patrick Street survey

Hello Mary,

Thank you for the email and my sincere apologies for not getting back to you sooner.

Attached is the City of Alexandria Block Sheet showing the dimensions of the lot. Also attached is our survey inventory data. You can see the surveys we have conducted and have all the background/deed information for.

The block depth is 246.83 feet. One half of the block is 123.42. Our deed runs a depth of 117.83 Feet. The difference is 5.59 feet.

The condominium deed runs from Alfred Street 123.42' to the Alley. Therefore the width of the property between the two deeds is 5.59 feet. The actual width of the physical alley varies but is generally 9 feet wide. Some of the deeds along Patrick call for a 12' alley. I do not know who owns the strip of ground.

The real answer to your question would involve locating improvements along both sides of the alley and then providing a backout turning radius sketch to demonstrate whether back out can be accommodated.

The title implications of using property across from the alley is a private/civil matter and certainly any approval should hold the City harmless from such.

I trust this information is helpful.

High Regards,

George M. O'Quinn, L.S.
President
Dominion Surveyors, Inc.
8808-H Pear Tree Village Court
Alexandria, Virginia 22309
703-619-6555 (office)

From: Kevin <reamer.kevin@gmail.com>
Sent: Thursday, March 16, 2023 2:57 PM
To: Alexa N Powell <alexa.powell@alexandriava.gov>
Cc: Mary Christesen <Mary.Christesen@alexandriava.gov>
Subject: Re: Notice of Complete Application for BZA2022-00026

The deed for 412 N Alfred Street (attached) states "with right of way over said alley in common with others entitled thereto." This same language is used in the deed discussed in the Circuit Court of Alexandria opinion by Justice Elizabeth A McClanahan. In this (attached) she states "In granting a right of way over the alley, the deed conveyed an easement over the four feet retained by the grantor." This shows that the language provided in the deed I provided to you grants an easement and so the full width of the alley should be calculated.

There's also multiple garages already on the alley so it would be inequitable to allow some garages but not others.

On Thu, Mar 16, 2023 at 8:18 AM Alexa N Powell <alexa.powell@alexandriava.gov> wrote:

Good morning,

I am reaching out regarding your variance application for the project at 415 N Patrick Street. After careful review of all of the submitted materials staff finds all items required under section [11-1102](#) of the zoning ordinance have been submitted and are deeming the application complete but will be basing the review exclusively on the survey provided.

Staff wants to underscore that ALL of the analysis involving the amount of rear setback relief and whether there is sufficient room for the turning radius will be based on the property survey provided (which indicates a 5.59 foot alley) as the survey is what is required by the ordinance and staff will NOT consider any additional documentation (deeds) since these are not required for a complete application. Note: It is in the applicant's best interest to try and resolve this discrepancy between the survey and the deeds. If you can demonstrate, on a survey the presence of a 12ft alley in this location, then there would be one less reason for our recommendation of denial (ie. establishing there is sufficient turning radius). Unless the applicant is able to do the title research and get a surveyor to revise the survey provided we have to go with the information we have currently listed on the survey. It is up to the applicant whether you wish to proceed with the current submission or do additional research and resubmit.

Please let us know, **before close of business on 3/24**, if you would like to defer the case to resolve the width of the alley. Unless we hear from you otherwise, we will add this item to the May 9, 2023 BZA agenda for consideration and send details about public notice.

Sincerely,

Alexa Powell
Urban Planner III
City of Alexandria - Department of Planning & Zoning
301 King Street, Room 2100
(Direct line 202-697-6623)
703.746.3864

From: Tony LaColla <anthony.lacolla@alexandriava.gov>
Sent: Wednesday, March 22, 2023 11:35 AM
To: reamer.kevin@gmail.com
Cc: Mary Christesen <Mary.Christesen@alexandriava.gov>; Alexa N Powell <alexa.powell@alexandriava.gov>
Subject: 415 N Patrick St (BZA2022-00026)

Mr. Reamer,

I am reaching out on behalf of my staff to follow-up regarding the response you provided on the BZA case at 415 N Patrick Street (BZA2022-00026).

Due to the fact that a survey was submitted showing an alley with a 5.59 foot width our position remains unchanged from what was outlined in the email sent on March 16, 2023. In order to change this determination, either a revised signed and sealed survey showing an alley width greater than 5.59 feet or if you agree with 5.59 ft width of the alley provide a deed of easement from the adjacent property owner granting the right to drive across their property to access the proposed garage.

With regard to the case you point to there are several issues related to it. First, the case examined deeds and rights for different properties from yours; therefore, because it does not address your property or the deeds related thereto

it is not relevant to this situation. Second, the surveyor indicated that the area beyond 5.59 feet from the rear property line of 415 N Patrick Street is private property, which is distinct from an alley over which neighboring property owners may have access rights. As previously indicated, it is in the applicant's best interest to try and resolve this discrepancy between the survey and the deeds. In the absence of a survey reflecting a greater alley width, your request is essentially for the City to allow the use of an adjacent private property owner's land to access the proposed structure without any documentation that such an easement agreement exists; the City does not have such authority. If you believe there are property rights beyond the 5.59 foot wide alley area, then that would be something you would need to pursue through a private cause of action.

Finally, as to your claim of not allowing the garage would be inequitable. When variances are sought an examination of the facts particular to the applicant property are examined and determinative.

Respectfully,

Tony LaColla, AICP

Land Use Services Division Chief

City of Alexandria Department of Planning and Zoning

301 King Street, Room 2100

Alexandria, VA 22314

703.746.3829 (desk)

571.329.1896 (cell)

anthony.lacolla@alexandriava.gov

From: Kevin <reamer.kevin@gmail.com>

Sent: Wednesday, March 22, 2023 11:59 AM

To: Tony LaColla <anthony.lacolla@alexandriava.gov>

Subject: Re: 415 N Patrick St (BZA2022-00026)

My deed clearly states that there is a 12 foot alley behind my property. That you refuse to consider that fact is unacceptable. Furthermore, the deed for the property on the other side of the alley, as I have already stated, includes the exact same language as to provide for an easement, as corroborated in the court case that I sent. I shouldn't have to tell you that if the law applies to one property, it applies to all properties equally. Obviously, that case is dealing with other properties, that's not what is at issue. It's the fact that the exact same language is used to convey an easement in that case, and would therefore also be used to convey an easement in this case.

I've also included pictures of the alley, in which at least 10 feet of it has been paved in its entirety, I would assume by the city, to include the area that you claim is owned by another property. That means that the city illegally crosses the property of multiple people every week to conduct trash and recycling pickup and paved over private property. You can clearly see from the photos that the facts on the ground do not line up with the survey, the only "evidence" that you have arbitrarily decided to look at.

I am not spending any more money on a survey simply because you refuse to acknowledge the valid statements on my deed.

From: Tony LaColla <anthony.lacolla@alexandriava.gov>

Sent: Friday, March 24, 2023 10:04 AM

To: reamer.kevin@gmail.com

Cc: Mary Christesen <Mary.Christesen@alexandriava.gov>; Alexa N Powell <alexa.powell@alexandriava.gov>

Subject: RE: 415 N Patrick St (BZA2022-00026)

Mr. Reamer,

I am following up regarding the response you provided on the BZA case at 415 N Patrick Street (BZA2022-00026). Below is an analysis of the issues presented by this case based on the materials provided along with our **final attempt** to explain our position and the options you have moving forward.

To start, we acknowledge that there is a deed which calls out a 12-foot alley located at the rear of the property and that the area behind your property has a greater than 5.59 foot width that is paved. However, to understand staff's position, I want to share with you additional background information that we received in researching your application.

According to George O'Quinn (from the survey company that prepared the survey that you submitted to the City with your application) "The block depth is 246.83 feet....our deed [415 N Patrick] runs a depth of 117.83 Feet. The condominium deed [412 N Alfred] runs from Alfred Street 123.42' to the Alley. Therefore, the width of the property between the two deeds is 5.59 feet. The actual width of the physical alley varies but is generally 9 feet wide. Some of the deeds along Patrick call for a 12' alley. I do not know who owns the strip of ground." See attached for a copy of the email.

Given all of this information, staff has been unable to establish whether: 1) there is a legally existing alley greater than 5.59 feet to the rear of your property or 2) if you have access rights to the **full width** of the paved area to the rear of your property.

We cannot accept the information you've provided and dismiss the deed information from a neighboring property nor can we overlook what simple math tells us is the remaining area between these two properties. If you believe there are property rights beyond the 5.59 foot wide alley area, then that would be something you would need to address through private action as the alley is private.

In the absence of providing the below our position remains unchanged from what was outlined in the email sent on March 16, 2023:

1. Provide a revised signed and sealed survey showing an alley width greater than 5.59 feet; or
2. If you agree with 5.59 ft width of the alley provide documentation of an easement from the adjacent property owner at 412 North Alfred Street granting the right to drive across their property to access the proposed garage (in this scenario, the rear yard setback will be taken to the center of the 5.59 foot alley, but the issue of vehicular access to the rear of the property will be addressed); or
3. Keep the application as currently submitted and the staff report will provide analysis on the basis of the alley width of 5.59 feet.

Finally, notwithstanding the above and as was made clear through our previous communications, regardless of the difficulties presented by the alley situation staff is still not supportive of the variance requests (involving relief from the definition of an accessory building under section 2-123.1, the rear yard setback in section 3-706.A.5, and the FAR in section 3-706.C) as they do not meet all of the criteria outlined in Section 11-1103 of the Zoning Ordinance. Among other issues, the request for additional floor area presents particular challenges in meeting the variance criteria as it essentially increases density and doing so would have the same effect as a rezoning. Under 11-1103(F) granting a variance must not "result in ...a change in the zoning classification of the property;"

Although the final filing deadline for the May 8 BZA hearing is Friday, March 24, we are extending your deadline until Monday. Please let us know how you wish to proceed by noon on Monday, March 27, 2023.

Tony LaColla, AICP

Land Use Services Division Chief
City of Alexandria Department of Planning and Zoning
301 King Street, Room 2100
Alexandria, VA 22314
703.746.3829 (desk)

571.329.1896 (cell)
anthony.lacolla@alexandriava.gov

From: Kevin <reamer.kevin@gmail.com>
Sent: Friday, March 24, 2023 12:22 PM
To: Tony LaColla <anthony.lacolla@alexandriava.gov>
Cc: Mary Christesen <Mary.Christesen@alexandriava.gov>; Alexa N Powell <alexa.powell@alexandriava.gov>
Subject: Re: 415 N Patrick St (BZA2022-00026)

This is the deed for 412 N Alfred Street (the property in question that is on the other side of the alley from my property) granting a "right of way over said alley in common with others entitled thereto"

PARCEL ONE: BEGINNING at a point on the west side of Alfred Street 196 feet 7 inches South of Oronoco Street and running thence West parallel with Oronoco Street 123 feet 5 inches to a 16 foot alley; thence North on said alley parallel with Alfred Street 82 feet 10 inches; thence East parallel with Oronoco Street 123 feet 5 inches to Alfred Street; thence South along Alfred Street 82 feet 10 inches to the point of beginning with right of way over said alley in common with others entitled thereto.

This is the court case that I previously sent that discusses a different deed in Alexandria granting a "right of way over said alley in common with others entitled thereto." And in it, Justice Elizabeth Ann McClanahan of the Supreme Court of Virginia states "In granting a right of way over the alley, the deed conveyed an easement..." These two deeds use the same exact language and the Supreme Court Justice states very clearly that that conveys an easement. This is the documentation showing there is an easement.

We reject Martin's contention that the language in the Miller deed granting a "right of way over said alley in common with others entitled thereto" shows an intention by the grantor to retain ownership of the entire alley. Under the general rule of construction, the Miller deed granted ownership in only four feet of the eight-foot wide alley. In granting a right of way over the alley, the deed conveyed an easement over the four feet retained by the grantor. In fact, Martin's position is



**APPLICATION
BOARD OF ZONING APPEALS**

VARIANCE

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

3-706(A)(5) Rear yard setback ratio

PART A

1. Applicant: ☒ Owner ☐ Contract Purchaser ☐ Agent

Name Kevin Romer

Address 415 N Patrick St

Alexandria, VA 22314

Daytime Phone 301-509-2199

Email Address kevin.a.romer@gmail.com

2. Property Location 415 N Patrick St, Alexandria VA 22314

3. Assessment Map #: 064.02 Block: 06 Lot: 09 Zone: RB

4. Legal Property Owner Name Kevin Romer & Misae Romer

Address 415 N Patrick St

Alexandria, VA 22314

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Kevin Romer	415 N Patrick St Alexandria, VA 22314	50
2. Misae Romer	415 N Patrick St Alexandria, VA 22314	50
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 415 N Patrick St Alexandria, VA 22314 (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Kevin Romer	415 N Patrick St Alexandria, VA 22314	50
2. Misae Romer	415 N Patrick St Alexandria, VA 22314	50
3.		

3. Business or Financial Relationships. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the [Alexandria City Council](#), [Planning Commission](#), [Board of Zoning Appeals](#) or either Boards of Architectural Review ([OHAD](#) and [Parker-Gray](#)). **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicate each person or entity below and "NONE" in the corresponding fields.)**

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1.		
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

5. Describe request briefly:

Requesting a variance of the 1:1 rear yard setback to allow for the construction of a 9'x20' addition to be used as a garage. The variance amount is to allow for a 10' tall garage to be built along the rear property line.

6. If property owner or applicant is being represented by an authorized agent,

such as an attorney, realtor or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?

☐ Yes — Provide proof of current City business license.

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

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

APPLICANT OR AUTHORIZED AGENT:

☒ I, as the applicant or authorized agent, note that there is a fee associated with the submittal of this application. Planning & Zoning Department staff will be in contact with the applicant regarding payment methods. Please recognize that applications will not be processed until all fees are paid.

☒ Yes ☐ No I affirm that I, the applicant or authorized agent, am responsible for the processing of this application and agree to adhere to all the requirements and information herein.

Printed Name: Kevin Romer

Date: 08/03/2024

Signature: 

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

PART B

APPLICANT MUST EXPLAIN THE FOLLOWING:

(Please **attach** additional pages where necessary.)

1. Please answer A or B:

A. Explain how enforcement of the zoning ordinance would prevent reasonable use of the property.

The proposed location is currently used as a parking space. The request is to turn this space into a garage. The zoning ordinance for which a variance is being requested is under the rear yard requirements section and granting this variance would leave the existing rear yard, which measures approximately 20'x55' (1100 sqft) unchanged.

B. Explain how the variance, if granted, would alleviate a hardship, as defined above.

2. Is this unreasonable restriction or hardship unique to the property?

A. Explain if the restriction or hardship is shared by other properties in the neighborhood.

Half of the alley is owned by the property at 412 N Alfred St, with a right of way easement placed upon it. This restricts the setback of the 10' alley from the usual 5' down to 2.5'.

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

No

3. Was the unreasonable restriction or hardship caused by the applicant?

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

Yes

B. Did the applicant purchase the property without knowing of this restriction or hardship?

Yes

C. How and when did the condition, which created the unreasonable restriction or hardship, first occur?

Unknown

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

No

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

A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood in general.

No detriment

- B. Has the applicant shown the proposed plans to the most affected property owners? Have these property owners written statements of support or opposition of the proposed variance? If so, please attach the statements or submit at the time of the hearing.**

No

- 5. Is there any other administrative or procedural remedy to relieve the hardship or unreasonable restriction?**

No

PART C

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

Yes. The current use as an uncovered parking space is the only alternative as it allows for use of the space as a parking space without the need for a variance.

A 10' fence along the school at 917 Princess St was approved and constructed. A 6' tall fence along 417 N Patrick St and a 6' tall gate along the rear property line was also approved but has not been constructed. While this solution would close in the parking space on all four sides allowing for increased security, there are two problems with this solution. One, a gate which allows for the parking of a car typically opens in one of two ways - either opening outwards, which is problematic due to blocking the alley or opening sideways, which is problematic due to blocking a neighboring property. Two, the parking space would remain uncovered.

2. Please provide any other information you believe demonstrates that the requested variance meets the required standards.

1) The spirit of the ordinance is upheld because the rear yard, which takes up more square footage than the main house, is retained and is not reduced in size.

2) Only being able to claim 2 1/2' of a 10' alley as setback is fairly unique to this property.

3) A 6' tall gate was already approved for construction. The proposed structure would only add an addition 4' to the height that has already been allowed.

*****ATTENTION APPLICANTS*****

At the time of application for a Special Use Permit, Rezoning, Vacation, Encroachment, Variance, Special Exception or Subdivision, you must provide a draft of the description of your request you intend to use in the property owner's notice. You must be thorough in your description. Staff will review the draft wording to confirm its completeness.

The example illustrates a detailed description:

"Variance to construct a two-story addition in the required side yards on _____ Street."

If you fail to submit draft language at the time of the application filing deadline, the application will be determined to be incomplete and may be deferred by staff.



Department of Planning and Zoning Floor Area Ratio and Open Space Calculations

B

A. Property Information

A1. 415 N Patrick St
Street Address

RB
Zone

A2. 2,360.00 x 1.50 = 3,540.00
Total Lot Area Floor Area Ratio Allowed by Zone Maximum Allowable Floor Area

B. Existing Gross Floor Area

Existing Gross Area		Allowable Exclusions**	
Basement		Basement**	
First Floor	748.00	Stairways**	48.00
Second Floor	748.00	Mechanical**	18.00
Third Floor		Attic less than 7'***	
Attic		Porches**	
Porches		Balcony/Deck**	
Balcony/Deck		Lavatory***	
Lavatory***		Other**	100.50
Other**	240.00	Other**	
B1. Total Gross	1,736.00	B2. Total Exclusions	166.50

B1. 1,736.00 Sq. Ft.
Existing Gross Floor Area*

B2. 166.50 Sq. Ft.
Allowable Floor Exclusions**

B3. 1,569.50 Sq. Ft.
Existing Floor Area Minus Exclusions
(subtract B2 from B1)

Comments for Existing Gross Floor Area

C. Proposed Gross Floor Area

Proposed Gross Area		Allowable Exclusions**	
Basement		Basement**	
First Floor	180.00	Stairways**	
Second Floor		Mechanical**	
Third Floor		Attic less than 7'***	
Attic	0.00	Porches**	
Porches		Balcony/Deck**	
Balcony/Deck		Lavatory***	
Lavatory***		Other**	
Other		Other**	
C1. Total Gross	180.00	C2. Total Exclusions	0.00

C1. 180.00 Sq. Ft.
Proposed Gross Floor Area*

C2. 0.00 Sq. Ft.
Allowable Floor Exclusions**

C3. 180.00 Sq. Ft.
Proposed Floor Area Minus Exclusions
(subtract C2 from C1)

D. Total Floor Area

D1. 1,749.50 Sq. Ft.
Total Floor Area (add B3 and C3)

D2. 3,540.00 Sq. Ft.
Total Floor Area Allowed
by Zone (A2)

E. Open Space

E1. 1,520.00 Sq. Ft.
Existing Open Space

E2. 826.00 Sq. Ft.
Required Open Space

E3. 1,340.00 Sq. Ft.
Proposed Open Space

Notes

*Gross floor area is the sum of all areas under roof of a lot, measured from the face of exterior walls, including basements, garages, sheds, gazebos, guest buildings and other accessory buildings.

** Refer to the Zoning Ordinance (Section 2-145(B)) and consult with Zoning Staff for information regarding allowable exclusions. Sections may also be required for some exclusions.

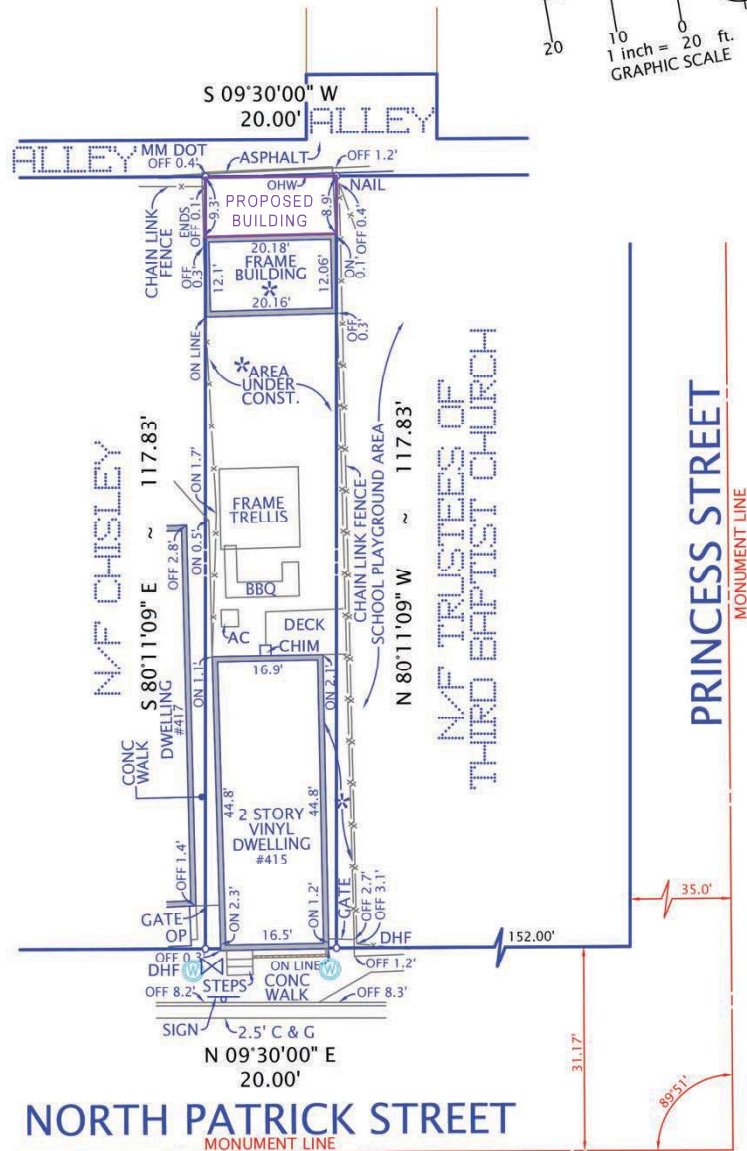
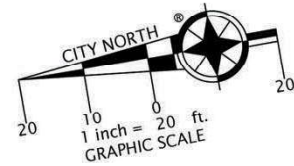
***Lavatories may be excluded up to a maximum of 50 square feet, per lavatory. The maximum total of excludable area for lavatories shall be no greater than 10% of gross floor area.

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

Signature: Kenshin

Date: 8/22/2024

- NOTES: 1. FENCES ARE FRAME UNLESS NOTED.
2. UTILITIES ARE UNDERGROUND.
3. AREA = 2,357 SF



PLAT
SHOWING HOUSE LOCATION ON
THE PROPERTY LOCATED AT
#415 NORTH PATRICK STREET

(INSTR. NO: 210013867)

CITY OF ALEXANDRIA, VIRGINIA

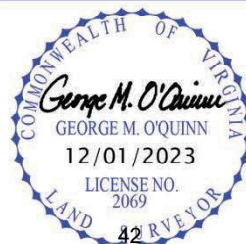
SCALE: 1" = 20'

DECEMBER 1, 2023

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.



DOMINION SURVEYORS®

CASE NAME:

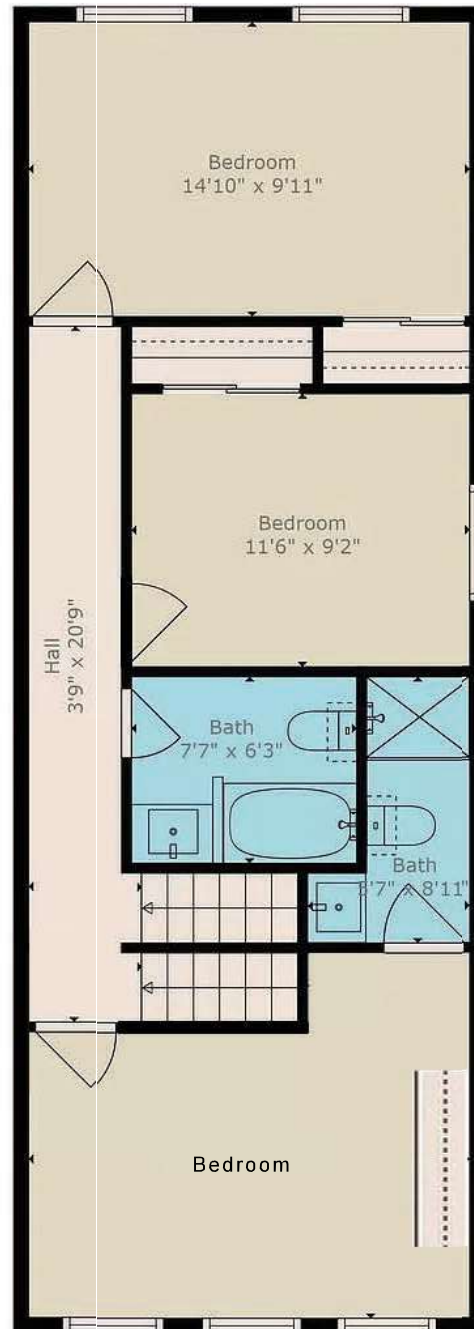
KEVIN REAMER

DOMINION Surveyors Inc.®

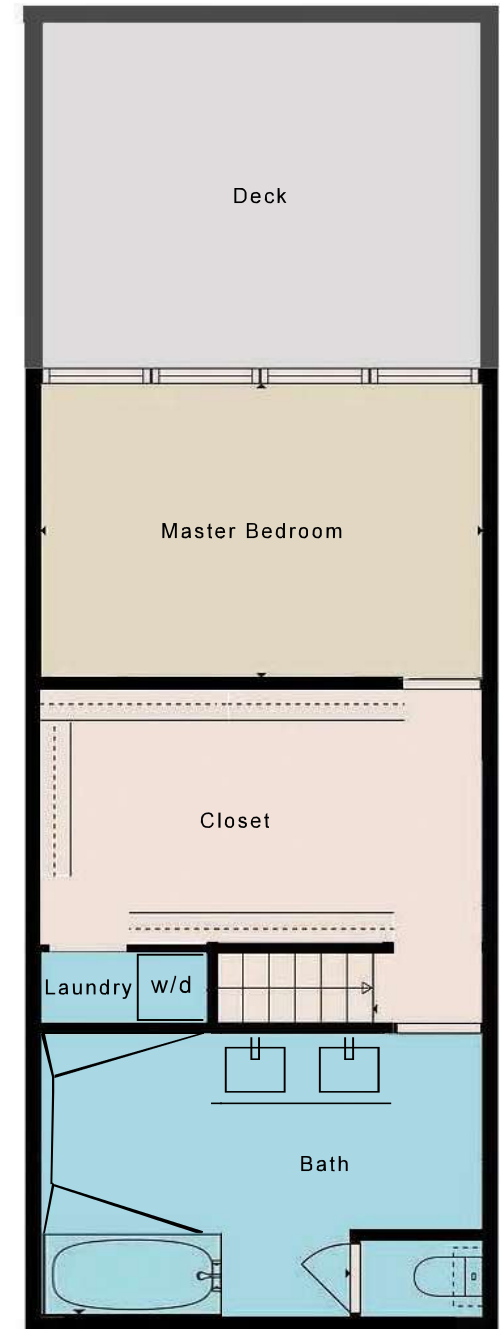
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-619-6555
www.dominionsurveyors.com



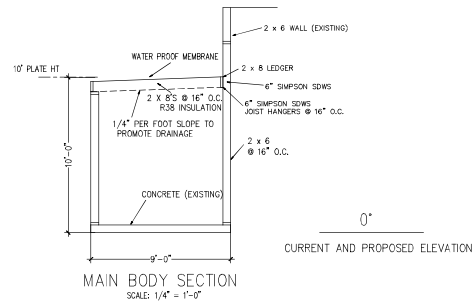
Floor 1



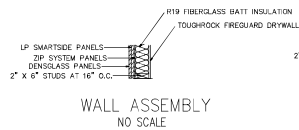
Floor 2



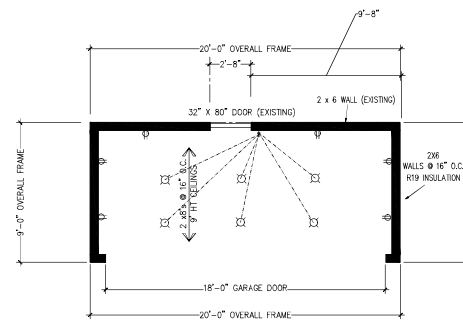
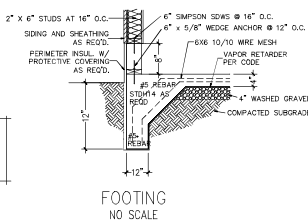
Floor 3



NOTE:
4" CONCRETE SLAB W/REIN
10/10 WIRE MESH OVER .006
ML VAPOR BARRIER AND 4"
WASHED GRAVEL. SPACE
BEAMS UNDER ALL BEARING
WALLS. ENGINEER REQUIRED
FOR MONOLITHIC SLAB.



NOTES
ZIP SYSTEM AND LP SMARTSIDE FASTENED 16" OC @ 6" SPACING
WITH 2-3/8" x 0.117" GALVANIZED RING NAILS
LP SMARTSIDE PANELS LAD AT 4" OFFSET OVER ZIP SYSTEM
1 HOUR FIRE RESISTANCE RATING



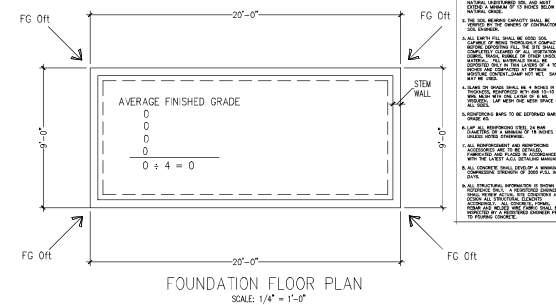
HVAC NOTES
9000 BTU MINI-SPLIT
SEER 20.5

ALL WALLS ARE 6 1/2"
UNLESS NOTED
OTHERWISE

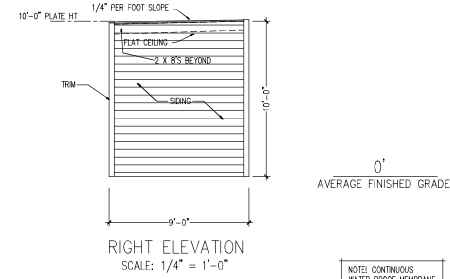
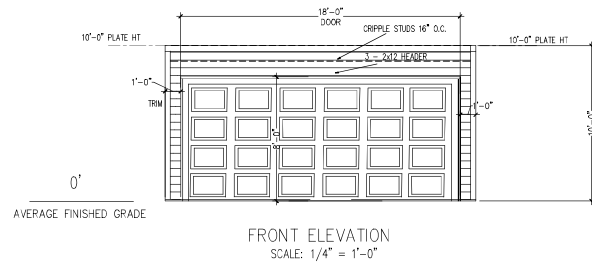
9'-3" CEILINGS ON
UNLESS NOTED
OTHERWISE

SQUARE FOOTAGE
180 TOTAL

VRC2018



FOUNDATION NOTES
1. FOUNDATION SHALL BE CONSTRUCTED ACCORDING TO THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITION OF THE ACI 308R-10. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
2. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
3. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
4. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
5. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
6. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
7. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
8. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
9. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.
10. ALL FOUNDATION SHALL BE CONSTRUCTED WITH A MINIMUM OF 4" REINFORCING BARS.



NOTE: CONTINUOUS
WATER PROOF MEMBRANE
@ ROOF

VRC2018

