

Docket Item # 2
BZA Case # 2017-0032
Board of Zoning Appeals
June 14, 2018

ADDRESS: 3841 ELBERT AVENUE
ZONE: RB/TOWNHOUSE ZONE
APPLICANT: SEAN KUMAR, OWNER

ISSUE: Public hearing and consideration of a request for an after-the-fact variance to allow a fence taller than 6.00 feet in required side and rear yards to remain.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-202 (B)(3)	Fence Height	6.00 feet (Max Height)	8.80 feet (Height)	2.80 feet (Height)

Staff **recommends denial** of the requested variance because the request does not meet the criteria for a variance.

If the Board decides to grant the requested variance it must be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.

I. Issue:

The applicant is requesting an after-the-fact variance to allow a fence taller than 6.00 feet in required side and rear yards to remain at 3841 Elbert Avenue.

II. Background:

The subject property is one lot of record with 50.00 feet of frontage facing Elbert Avenue, a depth of 110.00 feet along the side property lines and a width of 50.00 feet along the rear property line. The property contains 5,500 square feet of lot area. The lot is currently developed with a detached single-family dwelling located 20.60 feet from the front property line, 9.30 feet from the north side property, 7.80 feet from the south side property line and approximately 45.50 feet from the rear property line. The subject property is in compliance with the minimum lot area, width, and frontage for a single-family lot in the RB zone. According to real estate records, the residence was constructed in 1960.

On October 11, 2016, staff approved building permit, BLD2016-02220, for the construction of a free-standing garage in the rear of the main residence in accordance to City Zoning Ordinance § 7-2505. On August 2, 2017, staff received a revision to BLD2016-02220 for an after-the-fact installation of a roll up steel gate located in required north side yard and rear yard. The height of the gate does not comply with requirements set out in City Zoning Ordinance § 7-202 (B)(3). Staff found that this gate required a variance to remain. Therefore, the building permit was not approved and the applicant has requested relief through a variance.

This application was deferred by the applicant from the February public hearing and the applicant has been in discussions with the Department of Planning and Zoning in the interim regarding this request.

Table 1. Zoning Table

RB Zone	Requirement	Existing	Proposed
Lot Area	1,980 sq. ft.	5,500 sq. ft.	5,500 sq. ft.
Lot Width	50.00 ft.	50.00 ft.	50.00 ft.
Lot Frontage	50.00 ft.	50.00 ft.	50.00 ft.
Front Yard	20.00 ft.	20.60 ft. (dwelling) 16.50 ft. (front porch)	20.60 ft. (dwelling) 16.50 ft. (front porch)
Side Yard (north)	1:3 minimum 8.00 ft.	9.30 ft. (dwelling) 3.00 ft. (garage)	9.30 ft. (dwelling) 3.00 ft. (garage)
Side Yard (south)	1:3 minimum 8.00 ft.	7.80 ft. (dwelling) 34.80 ft. (garage)	7.80 ft. (dwelling) 34.80 ft. (garage)
Rear Yard (west)	1:1 minimum 8.00 ft.	45.50 ft. (dwelling) 21.40 ft. (garage)	45.50 ft. (dwelling) 21.40 ft. (garage)
Fence Height Requirements	6.00 ft. maximum	8.80 feet	8.80 feet

III. Project Description:

The applicant requests a variance in order to retain an installed fence with a roll up steel gate that is taller than the permitted 6.00 feet in height in side and rear yards.

IV. Master Plan/Zoning:

The subject property is currently zoned RB, Townhouse, which allows for low to medium density residential use. This lot has been so zoned since 1992. It is identified in the adopted Potomac West Area Plan for residential use.

V. Requested Variances:

Section 7-202 (B)(3) Permitted obstructions in any yard except at front yard

The applicant requests a variance from the maximum fence height of 6.00 feet in required north side yard and rear yard to allow a 8.80 foot fence with a 8.80 foot roll up steel gate to remain in its current location and configuration. A variance of 2.80 feet of height is requested.

VI. Applicant's Justification for the Variance:

According to the applicant, the property was acquired in good faith and the hardship was not self-imposed. The lot's unique topographic and existing conditions limit options for a gate or fence to be installed. The property is the only property along the block with an existing driveway in the rear with access from an adjacent property, known as Presidential Greens Apartments.

The applicant considered other fence with gate options including an inswing double gate, an outswing gate, and a sliding gate. According to the applicant, the uncommon physical difficulties of the lot made those options unfeasible and the installed fence with roll up steel gate is the only option. The applicant also states that neighbors are supportive of the project and the height of the fence is in keeping with the existing character of fences on the block.

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.

City Zoning Ordinance § 7-202 (B)(3) allows open and closed fences which do not exceed 6.00 feet in height to be located in any yard except a front yard. The request by the applicant to retain the fence is an unreasonable deviation from the Zoning Ordinance requirements. There are multiple alternative fences that could provide privacy and vehicular access to the rear yard (which is the desire of the applicant) and that would be compliant with the 6.00 foot height limitation.

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

The zoning ordinance does not unreasonably restrict the utilization of the property. There are many alternatives for the construction of a fence that would be in compliance with the Zoning Ordinance and would provide privacy and vehicular access to the rear of the property.

Options include but are not be limited to (1) constructing a fence with an inswing double gate, similar to the previously existing structure at this location, as detailed in Figure 1, or (2) constructing a fence that provides for mechanization of the gates that does not exceed 6.00 in height.



Figure 1: Previously existing fence with inswing double gate at 3841 Elbert Avenue.

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

The need for a variance would be shared generally by other properties if other property owners desired to construct a fence with a vehicular access gate of this design. Per Zoning Ordinance regulations, fences located within rear and side yards on properties zoned residential shall not exceed 6.00 feet in height. Therefore, every



Figure 2: Installed fence with roll up gate at 3841 Elbert Avenue.

residential zoned property within the city would need a variance for a structure of this design or a fence otherwise in excess of 6.00 feet in height.

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

The Zoning Ordinance permits open and closed fences which do not exceed 6.00 feet in height to be located in any yard except a front yard. Pursuant to section 7-202, certain obstructions shall be permitted when located in a required yard and placed so as not to obstruct light and ventilation. The subject property previously had a complying closed wooden fence with inswing double gate (Figure 1). Due to the fact that the fence would exceed the 6.00 height limitation the request is contrary to the purpose of the ordinance.

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

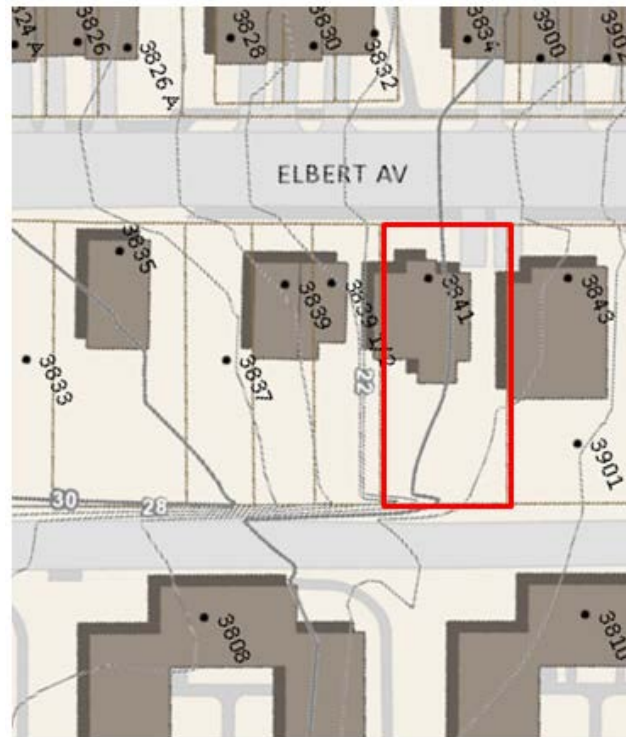
The variance request does not include a change in use.

VIII. Analysis of the 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 subject property is generally level in the rear starting at the northwest corner to the midpoint (approximate) of the lot and then the topography is gently undulating to rolling (Figure 3). The retaining wall starts at the midpoint (approximate) of the lot and ends at the southwest corner. While the topography of this lot may differ from others in the City, it does not unreasonably restrict the utilization of the property nor is it a physical condition that creates a



hardship. The property is currently developed with a detached single-family dwelling and one-car garage. Options for a complying privacy fence (with gate) can include an in-swing gate, sliding gate, or the applicant can set the existing roll up gate further into the property to comply with the setback requirements.

The property currently has two off-street parking spaces. An existing space is located in the front of the property and the second space is the newly constructed detached one-car garage. The reason for this application is because the applicant constructed a detached garage and he wants to maintain the parking area in between the garage and the rear property line. However, the 6.00 foot height limitation does not unreasonably restrict the use of the property because the aforementioned garage and parking area can be maintained with a compliant fence.

- b. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicants for the variance.

This variance request by the applicant is the result of a self-imposed hardship. A 6.00 foot complying wood fence with inswing doors previously existed on the property, providing a privacy and vehicular access via gates to the rear yard of the property. Subsequently, the applicant replaced it with the noncomplying fence that necessitates the current variance application.

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

Granting of the variance does not appear to be detrimental to nearby property or improvements in the vicinity of the area. Nearby properties have retaining walls of varying heights, with 5.00 feet tall (approximate) wooden privacy fences sitting on top of the retaining walls. The combined height of adjacent neighboring retaining wall and fences exceed 6.00 feet in height. However, height is measured from grade on the subject property and the height of retaining wall does not get included in the overall fence height.

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

The conditions and situation at this lot are not unique to the subject lot, as every fence located within the rear yard on a residentially zoned property in Alexandria cannot exceed 6.00 feet in height. The provisions of section 7-202, permit 6.00 foot privacy fences to be located in side and rear yards with no setback requirements other than a requirement that the structure not obstruct light and ventilation.

- 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 does not include a change in use. The property would continue to be used as a single-family residential dwelling unit.

- 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 the filing of the variance application.

No other remedy is available except a variance.

IX. Staff Conclusion:

Staff **recommends denial** of the requested variance because the property does not meet the criteria for a variance as outlined above.

Staff

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

Shaun Smith, Urban Planner, shaun.smith@alexandriava.gov

Anh Vu, Urban Planner, anh.vu@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. (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 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-2 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 owner of the alley granting permission of use. (T&ES)
- F-3 Gate must fully be contained on private property. (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)

Historic Alexandria (Archaeology):

No comments received.

Code Administration:

No comments received.

Recreation (Arborist):

No comments received.

Attachments:

1. Section from the Code of Virginia

ATTACHMENT 1

Code of Virginia § 15.2-2201

...

“Variance” means, in the application of a zoning ordinance, 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 when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

...

Code of Virginia § 15.2-2309(2)

...

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that 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, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) 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; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

...



**APPLICATION
BOARD OF ZONING APPEALS**

VARIANCE

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

7-202(B)(3)

PART A

1. Applicant: ☒ Owner ☐ Contract Purchaser ☐ Agent

Name Sean Kumar

Address 3841 Elbert Ave.

Alexandria, VA 22305

Daytime Phone 703-200-3041

Email Address seankumar@yahoo.com

2. Property Location 3841 Elbert Ave. 22305

3. Assessment Map # 007.03-06-33 Block Lot 29 & 30 Zone RB

4. Legal Property Owner Name Sean Kumar

Address 3841 Elbert Ave.

Alexandria, VA 22305

FILE COPY

Application Materials
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Date Routed: 01.10.18

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. Sean Kumar	3841 Elbert Ave.	100
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 3841 Elbert Ave., Alexandria, VA 22305 (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. Sean Kumar	3841 Elbert Ave.	100
2.		
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. Sean Kumar	I served on the BZA within the previous 12 months.	N/A
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.

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5. Describe request briefly:

Please see page 7(a) attached as next page.

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.

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.

Please see page 7(a) attached as next page.

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

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5. Describe request briefly:

I am requesting a variance from the Zoning requirement that a rear fence be no more than 6 feet high. I previously requested and received permits for the construction of a one-car garage in the rear of my personal residence that would allow for space to park one car between the garage and my fence. Although I obtained other permits, I was unaware that the gate used to secure my property would need to be higher than 6 ft to allow for parking and therefore require a variance. Due to the unique grade of my street, the max height of my gate is still below the other fence sections in my yard and the fences of other homes up the hill. The 8.5 ft roll up door has been installed and I am seeking approval to keep it as the unique topography of my property precludes other options.

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.

A six-foot limit will not allow me to securely use my garage and rear driveway for their intended purpose, parking, due to the unusual terrain on my property. Without a variance, there is not a feasible way for me to use my rear driveway to park a car and secure my backyard. Due to the slope of the back alley, the grade difference between the back yard, the alley, and the retaining wall, the options for a gate or fence are limited. The only viable option was to install a door that rolls up in place of the gate. The minimum height for such a door with a clearance of 7 ft, required for ingress and egress of vehicles, is 8.5 ft., which exceeds the 6ft height limit for a fence. Parking is a huge problem on Elbert Ave. and due to the fact that I have long-term roommates, I wanted to add parking in the rear for the benefit of my roommates and to reduce my on-street parking usage for neighbors (most of whom cannot utilize rear parking). Securing the yard is essential due to the dark and desolate nature of the alley behind my home.

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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.

Please see page 8(a) attached as next page.

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

Please see page 8(a) attached as next page.

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

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

Please see page 8(a) attached as next page.

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

Please see page 8(a) attached as next page.

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

Please see page 8(a) attached as next page.

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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.

The hardship is not shared by other properties in the neighborhood. Elbert Avenue is on a long, sometimes steep, hill running downhill from south (Glebe Rd.) to north. The alley running behind my house and other properties on my side of the street, sits below the grade of most of the backyards on my street. (Exhibits 7-12). The other yards, and even a big part of my yard, end at a grade several feet higher than the alley and meet the alley at a retaining wall. The retaining wall ends a couple of feet before my driveway opening. My house is the first house coming down the hill where the grade is shallow and accessible to the yard. Therefore, my house is the only house on the street with a rear driveway. None of the other houses with yards at the same grade as the alley have rear driveways. Most of them are attached townhomes with narrow yards and are part of the Lenox Place HOA. The alley is owned by Presidential Greens Apartment Complex and as part of my building permit process, T&ES required that I obtain permission from them to use the alley, which I did.

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

The condition of my property does not apply to other properties in this area. Most of them are on a hill with a retaining wall in the back. (Exhibits 7-12). This is the only property that has an existing driveway in the rear with access from the alley.

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

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

The conditions requiring the variance: the steep hill, retaining wall to the rear of the property, etc. all existed when the property was purchased.

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

The applicant was unaware this problem would occur. Given the slope of the alley and the retaining wall near the driveway opening, the applicant was unaware that he would be unable to install a fence/gate of this nature for security or that other alternatives would not be viable.

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

The condition of the slope of the alley and the retaining wall to the rear of my property existed before I purchased the property. The alley has probably existed since the large apartment complex behind my house was built.

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

Please see page 9(a) attached as next page.

- 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.**

Please see page 9(a) attached as next page.

- 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.**

Please see page 9(a) attached as next page.

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

Please see page 9(a) attached as next page.

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.**

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

The applicant did not create the unreasonable restriction or hardship. The applicant obtained permits for the rest of the project, not realizing the fence height would require a variance. The applicant is requesting a variance to allow for the garage, parking pad and gate to allow for parking between the garage and gate as intended; just as some applicants ask for a variance to allow for an addition or porch.

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.

The variance will not be detrimental. This door runs along a long, dark alley used primarily for garbage removal (large dumpsters - Exhibit 6) and EMS vehicles. There are permanent utility easements running along this alley and there is a large transformer box directly across from my gate (Exhibit 8). Across from the alley is a three-story high density apartment building (Exhibit 8, 18). The door has safety features and allows me, roommates and guests, to securely park in the rear of my property, alleviating some of the parking demand on Elbert Avenue for the other residents.

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.

The applicant discussed the idea and design of the garage and gate long before the project began. Neighbors have been supportive of the design, security, and my investment in my home.

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

The applicant is unaware of any other remedy.

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Please see page 10(a) attached as next page.

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

Please see page 10(a) attached as next page.

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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.

Other options considered were:

- 1. Inswing double gate, 8 ft each section:** The driveway is 22 ft long. With a parked car, there is not enough room to swing the gate back to closed position.
- 2. Outswing gate, 8 ft each section:** The gate sections will protrude out in the alley when opened to enter or exit the driveway, thus interfering with traffic flow in a private alley that is regularly used by garbage trucks, EMS and other vehicles. The alley in front of the driveway opening is sloped and would not allow outswing of a gate, facing the gate from the alley.
- 3. Sliding gate:** Right side facing the opening from the alley is the adjacent neighbor's property. The gate could only slide to the left side which is not feasible because of the grade, the retaining wall, and a large utility pole above my fence (see exhibits 12, 16, 18). There is a retaining wall almost 4 to 6 ft high along the backyard fence of all the residential properties on the west side of the alley, across from the apartment complex. Having considered these options, a roll up door was found to be the only viable option, and unfortunately was likely more expensive than the non-viable options considered. The door with installation cost \$6,000.

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

I request this variance due to the unique topography of my property, the fact that it is unlikely to apply to other properties (abutting a trafficked, unlit alley, near high density apartments, utility transformers and poles), the fact that abutting an alley, it is out of the way and not bordering another yard, it is of no harm to neighboring properties, and that it helps to alleviate the terrible parking on the front of my street.

Even though the door is 8 ½ ft above the ground at the driveway, it is considerably lower than the fence on the remainder of the subject property (see exhibit 18) as well as all the adjacent properties uphill where a six ft fence is built above a 4 to 6 ft retaining wall. The gate, while above 6 ft, is still uniform with the staggered, drop-down nature of the fence sections along the alley.

We realize that this variance request is being made after the fact and apologize for that. The door has already been installed. We obtained other permits for this project before any work began, not realizing that anything would be required for the gate.

I acquired this property in good faith and did not create the hardship. The granting of this variance will not detriment nearby properties and this condition will not require the formulation of a general regulation. The 21 properties uphill from me are all 4-6 ft above the alley. My intended use, securely park vehicles in my rear driveway, will alleviate parking on the street. Thank you for your consideration.

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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: Sean S. Kumar

Date: 26 Dec 2017

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.

*****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 3830 1/2 Elbert Ave 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.

Application Materials
BZA2017-0032
3841 Elbert Ave.
Date Routed: 01.10.18

**A**

DEPARTMENT OF PLANNING AND ZONING

FLOOR AREA RATIO AND OPEN SPACE CALCULATIONS FOR SINGLE AND TWO-FAMILY RESIDENTIAL OUTSIDE HISTORIC DISTRICTS

A. Property InformationA1. Street Address 3841 Elbert Ave, Alexandria, VA 22305Zone RBA2. 5500X 0.75= 4,125

Total Lot Area

Floor Area Ratio Allowed by Zone

Maximum Allowable Floor Area

B. Existing Gross Floor Area

Existing Gross Area*		Allowable Exclusions	
Basement	1067	Basement**	1067
First Floor	1067	Stairways**	50
Second Floor		Mechanical**	
Third Floor		Porch/Garage**	380
Porches/Other	380	Attic less than 5'**	
Total Gross*	2514	Total Exclusions	1497

B1. Existing Gross Floor Area *
2514 Sq. Ft.B2. Allowable Floor Exclusions**
1497 Sq. Ft.B3. Existing Floor Area minus Exclusions
1017 Sq. Ft.
(subtract B2 from B1)**C. Proposed Gross Floor Area (does not include existing area)**

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

C1. Proposed Gross Floor Area *
0 Sq. Ft.C2. Allowable Floor Exclusions**
0 Sq. Ft.C3. Proposed Floor Area minus Exclusions
0 Sq. Ft.
(subtract C2 from C1)**D. Existing + Proposed Floor Area**D1. Total Floor Area (add B3 and C3) 1017 Sq. Ft.D2. Total Floor Area Allowed by Zone (A2) 4125 Sq. Ft.

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

** Refer to the zoning ordinance (Section 2-145(A)) and consult with zoning staff for information regarding allowable exclusions.

If taking exclusions other than basements, floor plans with excluded areas illustrated must be submitted for review. Sections may also be required for some exclusions.

E. Open Space Calculations Required in RA & RB zones

Existing Open Space	4053
Required Open Space	800
Proposed Open Space	4053

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

Signature: [Signature]Date: 28 December 2017

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3841 Elbert Ave

Photos for Variance Request

Sean S. Kumar

703-200-3041

seankumar@yahoo.com

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3841 Elbert Ave.
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Exhibit 1 - Old gate and driveway



Exhibit 2 - Old gate



Exhibit 3 - End-Rear of old driveway



Exhibit 4 - Top of Alley from Glebe Rd

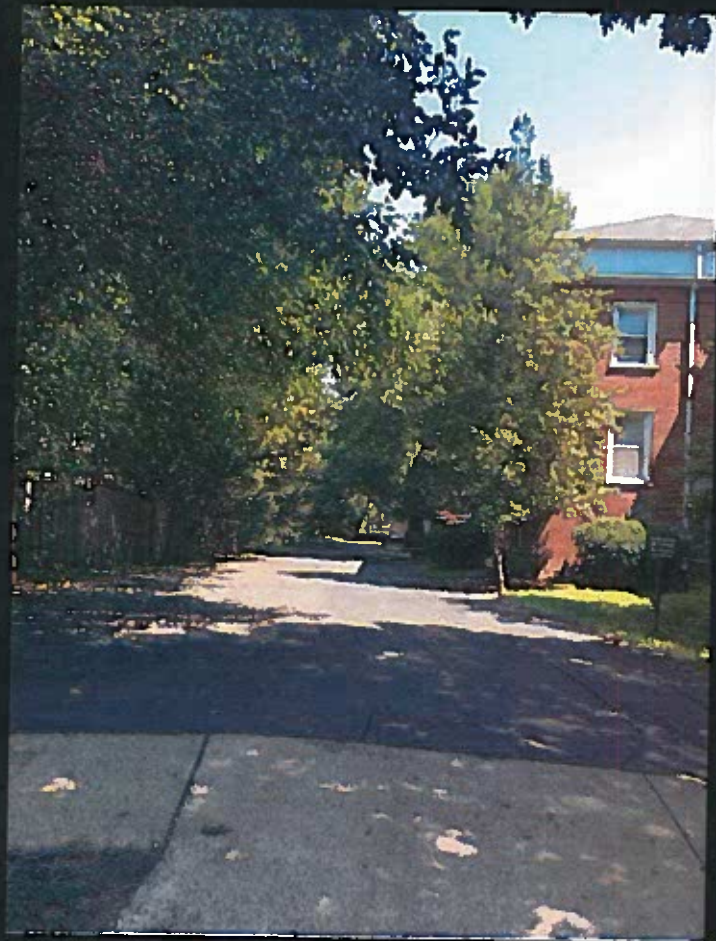


Exhibit 5 - Top of Alley



Exhibit 6 - dumpsters in alley



Exhibit 7 - Alley looking uphill (south)



Exhibit 8 - Alley showing new gate, transformers and retaining wall

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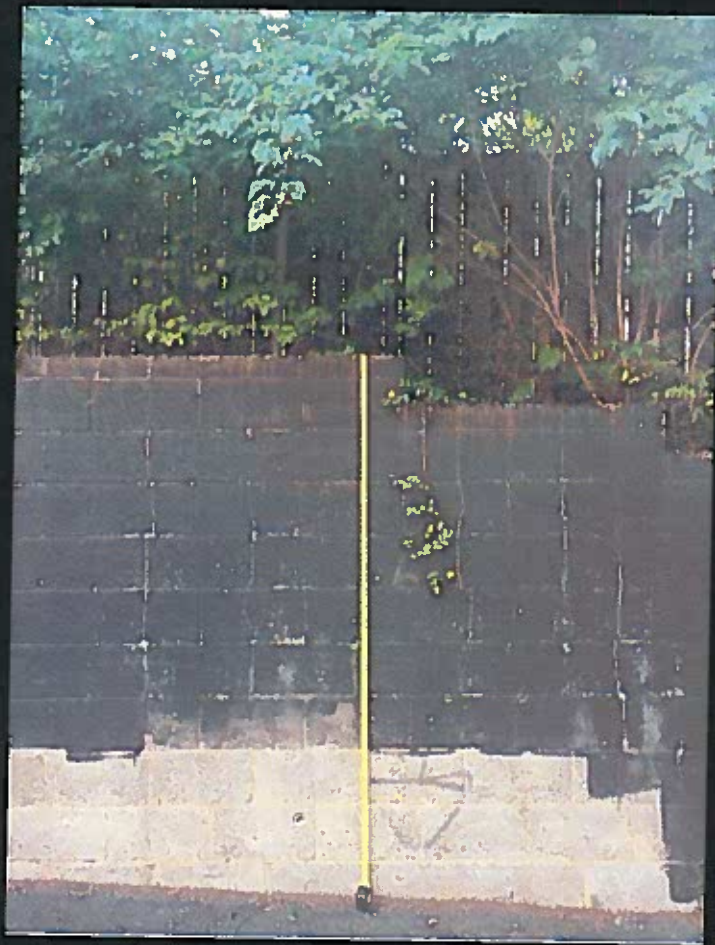


Exhibit 9 - Height of retaining wall (6.5 ft) and fence above (6 ft)



Exhibit 10 - Retaining wall looking downhill

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Exhibit 11 - Retaining wall at uphill neighbor's fence



Exhibit 12 - Fenceline looking downhill with gate open



Exhibit 13 - Gate installation



Exhibit 14 - Installed gate with door closed

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Exhibit 15 - view of fenceline and gate



Exhibit 16 - view of closed gate and fenceline uphill

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Exhibit 17 - view of gate open with truck in driveway



Exhibit 18 - view of gate closed with backyard fenceline and uphill neighbor's fenceline

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