Docket Item # 3 BZA #2018-0018 Board of Zoning Appeals December 10, 2018

ADDRESS: ZONE: APPLICANT:	1015 DUKE STREET CL, COMMERCIAL LOW STEVEN AND MAUREEN SANUDERS, OWNERS BY BETSY GORMAN, AGENT			
ISSUE:		n the required front set residential townhouse	back to convert an exis dwelling.	sting office
CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
4-106(A)(2)(a)	Front Yard	20.00 feet	0.90 feet	19.10 feet

Staff **<u>recommends approval</u>** of the requested variance subject to compliance with all applicable code requirements, ordinances and recommended conditions found in the departmental comments of this report.

BZA #2018-0018 1015 Duke Street



Issue

The applicants propose to convert the existing office building back to its original use, a residential townhouse dwelling and must request a variance from the required front setback for residential uses in the CL zone. No construction is proposed as part of this request.

I. <u>Background</u>

The subject property is one lot of record with 26.40 feet of lot frontage and width and 88.00 feet of lot depth. The property contains 2,323.40 square feet of lot area and is developed with a two-story building currently used as an office. The existing lot and building comply with the CL zone regulations for nonresidential uses. The existing office building is located .90 feet from the front property, on the east and west side property lines and 39.50 feet from the rear property line.

The property was originally developed in 1885 with a two-story building that was used as a residence until 1986 when it was converted to an office use. The property was developed with a residence prior to the City's first zoning ordinance. In 1985, a subdivision was approved to adjust the lot line between 1015 and 1017 Duke Street, which resulted in the lot's current configuration. The subject property is located in the Old and Historic Alexandria District and is regulated by the Board of Architectural Review.

CL Zone	Requirement	Requirement	Existing/Proposed
	(residential townhouse)	(Office)	Existing/Troposed
Lot Area	1,980 sq. ft.	0 ft.	2,323.20 sq. ft.
Lot Width	18.00 ft.	0 ft.	26.40 ft.
Lot Frontage	18.00 ft.	0 ft.	26.40 ft.
Front Yard	20.00 ft.	0 ft.	.90 ft.
Side Yard (west)	0 ft.	0 ft.	0 ft. (2 nd floor)
Side Yard (east)	0 ft.	0 ft.	0 ft.
Rear Yard	1:1 minimum 8.00 ft.	0 ft.	39.50 ft.
Open Space	929.28 sq. ft. (40%)	0 ft.	939sq. ft. (40.4%)
Floor Area	Maximum 1,742 sq. ft.	Maximum 1,742 sq. ft.	1,670 sq. ft.
Ratio	(.75)	(.75)	(.71)
Height	45.00 ft.	45.00 ft.	<45 ft.
Parking	2 spaces	0 spaces *	2 spaces

Table 1. Zoning Table

*Subject property is located in the Central Business District and no parking is required for office uses on lots less than 10,000 square feet.

II. <u>Description</u>

The applicants propose to convert the existing office building back to the original use, residential. No new construction is proposed. The existing lot meets the all the area requirements for residential uses in CL zone and the existing lot and building meet all the bulk requirements for a residential use in the CL zone except for the 20.00 required front yard setback. The existing building is located 0.90 feet from the front property line, resulting in the need for a variance of 19.10 feet to meet the front yard setback required for a residentially used property in the CL zone.

III. Master Plan/Zoning

In 1939, the property was zoned to Residential Zone "C". In 1963, the property was zoned to I-1, Industrial, then in 1983, the property was rezoned to C-2, which permitted a variety of residential and commercial uses. The subject property is currently zoned CL, Commercial Low and has been so zoned since June 24, 1992. The subject property is located in the Old Town Small Area Plan and this block of Duke Street is identified as a mix of residential and commercial uses.

IV. <u>Requested Variance</u>

Front Yard 4-106(A)(2)(a)

Zoning ordinance section 4-106(A)(2)(a) requires a front yard setback of 20.00 feet for residentially uses in the CL zone. The existing building is located 0.09 feet from the front property line. The applicants request a variance of 19.10 feet from the required 20.00 foot front yard setback.

V. Applicants Justification for Variance

The applicants justify the variance because the conversion of the building back to its original use is a permitted use in the zone. The applicants also state that the existing location of the front building wall within the required front setback is consistent with other properties on the block and the building was originally constructed in its current location as a residential dwelling.

VI. <u>Analysis of the Variance Standards</u>

For the Board of Zoning Appeals to grant a variance the following must be met (1) the definition of a variance, set out in Code of Virginia § 15.2-2201 and (2) the criteria for a variance, set out in Code of Virginia § 15.2-2309(2). The applicant seeking the variance must prove by a preponderance of the evidence that his or her application meets these requirements.

The language below contains staff's interpretation of the Code of Virginia requirements, the pertinent provisions of Sections 15.2-2201 and 15.2-2309(2) are set out in Attachment 1.

A. <u>Analysis of the Definition of a Variance (Code of Virginia § 15.2-2201)</u> The applicant must establish that the variance he or she is seeking:

1. 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 a reasonable deviation from the 20.00 foot required front yard setback because the location is the historical location of the building (dating to approximately 1885) and its location on the lot is in character with the location of other residential and commercial buildings on the block.

2. The strict application of the zoning ordinance would unreasonably restrict the utilization of the property.

The strict application of the ordinance would prohibit the permitted use of the existing historic building as a residence because it does not meet the required front yard setback of 20.00 feet.

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

The subject property is developed with a historic building located 0.90 feet from the front property line. While this situation would apply to other buildings similarly situated on CL zoned properties converting from commercial to residential many of the properties have remained residential and would be legally noncomplying. This lot is also unique because it meets all the other bulk and area requirements for a residentially used property in the CL zone.

4. The variance is not contrary to the purpose of the ordinance.

It is not the intent of the ordinance to apply a 20.00 foot front yard setback to existing historic buildings seeking to convert back to their original use, which is a permitted use in the CL zone. The existing historic building is located in keeping with the character of the block and the Old and Historic Alexandria District. This location of the existing front building wall is common for other CL zoned properties located in the historic district.

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

The variance does not include a change in use, the proposed use, a residential townhouse dwelling, is a permitted use in the CL zone.

B. Analysis of the Criteria for a Variance (Code of Virginia § 15.2-2309)

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

When the building was constructed in approximately 1885 as a residential dwelling unit, there was no zoning ordinance in Alexandria or requirement to provide a setback from the front property line. The location of the existing building on the lot within the required front yard unreasonably restricts the use of the property as a residential dwelling.

2. 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.

While the applicant is proposing to change the use of the building from commercial to residential which results in the requirement to provide a front yard setback, the location of the existing front building wall has been in its current location since the building was built in approximately 1885. The current property owner purchased the property in 1985 and was unaware of the bulk and area requirements to convert the building back to residential.

3. 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 the variance will allow the building to converted back to it's original use and will be in keeping with the character of the block where the majority of buildings are built at or near the front property line. Of the ten other properties developed on the north side of this block of Duke Street only one property has a greater setback than the subject property. The other nine buildings are located at the front building line similar to the subject property. This block and the adjacent blocks along Duke Street are a mix of commercial and residential uses, so granting the variance will not be of substantial detriment to adjacent and nearby properties.

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 subject property was developed in 1885 with a residential dwelling located 0.90 feet from the front property line prior to the requirement to provide a front setback. While this situation would apply to other existing buildings similarly situated on CL zoned properties converting from commercial to residential, many of the properties have remained residential and would be legally noncomplying as to the front setback.

4. 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 for the front yard setback would permit a change in the use of the property from commercial to a residential townhouse dwelling, which is a permitted use in the CL zone.

5. 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.

Relief from the front yard setback requirement is not available through any other process.

VII. Staff Conclusion

As outlined above staff **recommends approval** of the requested variance subject to compliance with all applicable code requirements, ordinances and recommended conditions found in the departmental comments of this report.

Staff

Mary Christesen, Zoning Manager, <u>mary.christesen@alexandriava.gov</u> Tony LaColla, Land Use Division Chief, <u>anthony.lacolla@alexandriava.gov</u>

BZA #2018-0018 1015 Duke Street

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 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-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:
 <u>For a Public Alley -</u> The applicant shall contact T&ES, Construction Permitting & Inspections at (703) 746-4035 to discuss any permits and accommodation requirements that will be required.
 <u>For a Private Alley</u> 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)
- 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:

No comments received.

Recreation (City Arborist):

No comments received.

Historic Alexandria (Archaeology):

F-1 No archaeological oversight necessary for this project.

Historic Preservation (P&Z):

- F-1 The subject property is located in the locally regulated Old and Historic Alexandria District (OHAD). Any demolition/capsulation, addition or alterations to the subject property requires a Permit to Demolish/Capsulate or Certificate of Appropriateness from the OHAD Board of Architectural Review.
- F-2 The subject property first appears on the 1885 Sanborn Fire Insurance Map as a two-story dwelling.
- F-3 Staff does not object to the proposed variance to change the use from commercial to residential.

Other Requirements brought to the Applicant's Attention if the Board approves the requested variance:

C-1 The variance must be recorded with the property's deed in the City's Land Records Office prior to the approval of a certificate of occupancy.



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

4-106 (A)(2)(a)

PART A

a

1.	Applicant: Owner Contract Purchaser 🖌 Agent
	Name Betsy Gorman
	Address c/o Long & Foster
	400 King Street, Alexandria, VA 22314
	Daytime Phone 703-861-4825
	Email Address betsy@gormangroup.net
2.	Property Location 1015 Duke Street, Alexandria V
3.	Assessment Map # Block 08 Lot 502 Zone CL
4.	Legal Property Owner NameSteven R. Saunders and Maureen C. Saunders Address 1015 Duke Street
	Alexandria, VA 22314

OWNERSHIP AND DISCLOSURE STATEMENT Use additional sheets if necessary

<u>1. Applicant.</u> 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
Steven R Saunders	1015 Duke St, Alex. VA	50%
Maureen C. Saunders	1015 Duke St., Alex. VA	50%
3.		

<u>2. Property.</u> State the name, address and percent of ownership of any person or entity owning an interest in the property located at <u>1015 Duke Street</u>, Alexandria VA (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
Steven R Saunders	1015 Duke St, Alex, VA	50%
Maureen C. Saunders	1015 Duke St, Alex, VA	50%
3.		

<u>3. Business or Financial Relationships.</u> 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 the12-month period prior to the submission of this application with any member of the <u>Alexandria City Council</u>, <u>Planning Commission</u>, <u>Board of Zoning Appeals</u> or either Boards of Architectural Review (<u>OHAD</u> and <u>Parker-Gray</u>). 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 Steven R Saunders	none	none
^{2.} Maureen C. Saunders	none	none

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:

Approve variance regarding the residential front yard set back requirement to permit residential use at 1015 Duke

Street. Property is zoned CL with Commercial Office use. Property was built in 1900 and used as a residence until

1986 when it converted to commercial use. The property currently doesn't meet the residential code requirements only with

regard to the front yard set back.

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?



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.

1015 Duke Street appears to have been originally constructed for residential purposes and was used as such for over 85

years. The owners would like to reinstate residential use for the property which is permissible in the CL zone.

The front yard set back is the only requirement of the residential code that the property fails to meet. The property's set back

from the street is consistent with its neighbors, the vast majority of which are zoned CL and in residential use. Granting the variance

would promote conformity and achieve parity on the block. To enforce the zoning ordinance would unfairly and unreasonably

prevent 1015 Duke Street to be used in the same manner as its similarly situated neighbors.

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

n/a

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.

There are 9 other properties on the west side of the 1000 block of Duke Street in addition to 1015 Duke Street. All are zoned CL. 7 are occupied and being used as residences, 1 is an active office space and 1 is vacant. This is not a problem shared by other properties in the immediate neighborhood.

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 situation does not apply to other properties on the block. It is unknown if it applies to other properties in the same zone.

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

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

Yes, the front set back of the house has remained unchanged since the property's construction in 1900.

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?

The front yard set back has remained unchanged since the building was first constructed.

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. The front yard set back has remained

unchanged for 118 years.

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 proposed variance will not be detrimental to the adjacent properties or neighborhood.

Instead, it will bring the property into conformity with its neighbors.

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.

Applicant will discuss the proposed variance request with the neighbors and will submit statements prior to or at the hearing.

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.

No alternatives are available.

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

The proposed variance will achieve parity and conformity amongst the properties on the north side of the 1000 block of Duke Street which is primarily comprised of historic properties zoned CL and used as residences. Currently, 1001, 1003, 1005, 1007, 1017, 1019, and 1021 Duke Street are zoned CL and used as residences. Only 1009 Duke Street is an active office. 1015 Duke was used as a residence for the vast majority of its existence.

The front yard set back deficiency is a deficiency that every neighbor on the block shares.

Granting a variance for the front yard set back at 1015 Duke Street will not confer any unique rights on the property. It would only permit the property to be used in the way the neighbors are using similarly situated properties.

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.

	agent, am responsible for the processing of the requirements and information herein.
Printed Name: Betsy Gorman	Date: 10/23/18
Signature:	
Pursuant to Section 13-3-2 of the City Code, the information may constitute a Class 1 misdemeanor year in jail or \$2,500 or both. It may also constitute for with such information.	and may result in a punishment of a

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:

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

A. Property Information

A1. Street Addres	S 1015 Duke Street, Alexand	iria, VA 22314		Zone_cL	
A2. 2323.2 Total Lot Area	-	× 75 % Floor Area Ratio Allow	ed by Zone	= <u>[742</u> Maximum Allowable Floor Area	
Existing	Gross Area*	Allowable Exclu	sions	1	
Basement		Basement**		B1. Existing Gross Floor Area *	
First Floor	835	Stairways**		B2. Allowable Floor Exclusions**	
Second Floor	835	Mechanical**		Sq. Ft.	
Third Floor				B3. Existing Floor Area minus Exclusi	
		Total Exclusions		(subtract B2 from B1)	
Total Gross *	1470				S
C. Proposed Gro	oss Floor Area	 (does not include exi	sting area)		ion Materials :018-0018 Duke Street
Proposed	Gross Area*	Allowable Exclus	sions	1	on 013 Vuk

Proposed Gross Area*	Allowable Exclusions
Basement	Basement**
First Floor	Stairways**
Second Floor	Mechanica!**
Third Floor	Other**
Porches/ Other	Total Exclusions
Total Gross *	

C1. Proposed Gross Floor Area *
Ø Sq. Ft.
C2. Allowable Floor Exclusions**
Ô Sq. Ft.
C3. Proposed Floor Area minus
Exclusions O Sq. Ft.
(subtract C2 from C1)

Application Materials BZA2018-0018 1015 Duke Street Date Routed: 10.29.18

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

** Refer to the zoning ordinance (Section2-145(B)) and consult with zoning staff for information regarding allowable exclusions.

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

10

Date:

18

E. Open Space Calculations

D. Existing + Proposed Floor Area

D2. Total Floor Area Allowed by Zone (A2)

D1. Total Floor Area (add B3 and C3)

Existing Open Space	939
Required Open Space	929.28
Proposed Open Space	939

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

Sq. Ft.

Sq. Ft.

Signature:

1015 Duke Street, Alexandria, Virginia

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Draft description of request in property owner's notice:

"Variance to permit residential use at 1015 Duke Street, Alexandria, Virginia."

1015 Duke Street, Alexandria, VA 22314



1015 Duke Street –brown building in center



Standing on back patio looking toward rear gate



Back door/patio

1015 Duke Street, Alexandria, Virginia 22314



Parking in rear

1015 Duke Street, Alexandria, VA 22314



Height of pond less than 24 inches

Google Maps Duke St



Google Maps Duke St



Contraction of the second seco

West side of 1000 block of Duke St.



#180827015