Docket Item # 4 BZA #2018-0020 Board of Zoning Appeals February 11, 2019

ADDRESS: 803 PRINCE STREET **ZONE:** RM/TOWNHOUSE ZONE

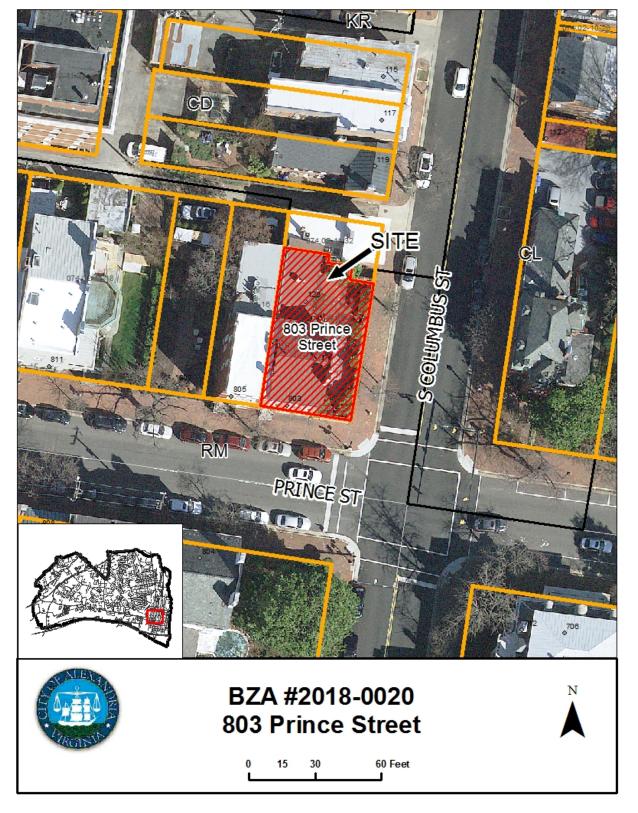
APPLICANT: BRAD SEIFERT

ISSUE: Variance from the required west side yard setback to convert existing

office building to a residential dwelling.

CODE	SUBJECT	CODE	APPLICANT	REQUESTED
SECTION		REQUIREMENT	PROPOSES	VARIANCE
3-1106(A)(2)(a)	Side Yard (West)	5.00 feet	0.00 feet	5.00 feet

Staff <u>recommends approval</u> of the request subject to compliance with all applicable code requirements, ordinances and recommended conditions found in the department comments.



I. Issue

The applicant proposes to convert the existing three-story commercial building to a residential dwelling. A residential dwelling would not meet the required five-foot side yard. The applicant requests a variance of five feet from the required west side yard. No expansion of the existing building is proposed.

II. Background

The subject property is an irregularly shaped, corner lot of record with 42.00 feet of frontage along Prince Street and 63.58 of frontage along South Columbus Street. The lot contains 2,930 square feet of lot area. It complies with the RM zone's minimum lot size, width and frontage requirements. The subject property is located in the Old and Historic Alexandria Historic District (OHAD). Residential uses predominate the area along Prince Street, but two commercial buildings are located directly north and east of the subject property.

City records indicate that the subject property has been used for commercial purposes from 1975 to date. Prior to 1975, the subject property was used as a residential dwelling. Between 1963 and 1992, the property was zoned C-3/Commercial which permitted commercial uses.

On September 8, 2011 Planning Commission approved a subdivision that allowed a lot line adjustment between the subject property and the adjacent lot to the north at 121 South Columbus Street. The lot line adjustment transferred approximately 86 square feet of lot area from the subject property to the 121 South Columbus Street lot, but did not create the need for the variance

According to OHAD Board of Architectural Review records, the existing building was constructed circa 1814. It abuts an adjacent residential dwelling to the west at 805 Prince Street and shares a party wall with a commercial building to the north at 121 South Columbus Street. As such, the existing building provides no side yards. It is located 1.20 feet beyond the front lot line along Prince Street and 17.00 feet from the front lot line along South Columbus Street. The building contains approximately 3,400 square feet of net floor area.

III. Description

The applicant proposes to convert the existing commercial building to a residential dwelling. No expansion of the building is proposed. Because the existing building shares a common party wall with the property located at 121 South Columbus Street, as a residential use, it would be considered one half of a semi-detached dwelling. A semi-detached dwelling in this configuration would require a west side yard of at least five feet.

Because it is not feasible to provide parking from an alley or interior court, the two required off-street parking spaces for the proposed residential use has been waived pursuant to zoning ordinance section 8-200(C)(5)(a).

The proposal would comply with floor area and all other zoning regulations upon completion.

The following table provides a breakdown of all applicable zoning regulations as they pertain to the proposed dwelling:

RM Zone	Required/Permitted	Provided
Lot Area	1,452 Sq. Ft.	2,930 Sq. Ft.
Lot Width/Frontage (Prince Street)	25.00 Ft.	38.03 Ft.
Lot Width/Frontage (South Columbus Street)	25.00 Ft.	63.58 Ft.
Front Yard (South)	0.00 Ft.	0.00 Ft.
Front Yard (East)	0.00 Ft.	17.00 Ft.
Side Yard (West)	5.00 Ft.	0.00 Ft.
Side Yard (North)	0.00 Ft.	0.00 Ft.
Net Floor Area	4,395 Sq. Ft. 1.50 Floor Area Ratio	3,400 Sq. Ft.
Open Space	1,026 Sq. Ft. (35%)	1,383 Sq. Ft.

IV. Noncomplying Use and Structure

The existing commercial use is noncomplying in the RM, Residential Townhouse zone which does not permit commercial uses. The existing building is also a noncomplying structure with respect to the following:

	Required	Provided	Noncompliance
Side Yard (North)	25.00 Ft.	0.00 Ft.	25.00 Ft.
Side Yard (West)	25.00 Ft.	0.00 Ft.	25.00 Ft.

V. Master Plan/Zoning

The subject property is currently zoned RM/Residential Townhouse. Prior to June 24, 1992 the property was zoned C-3/Commercial. Prior to March 19, 1963 the property was zoned RA/Residential Multifamily. The Old Town Small Area Plan identifies the property for medium-density residential land use.

VI. Requested Variance

3-1106(A)(2)(a) Side yards

Zoning Ordinance section 3-1106(A)(2)(a) requires a semi-detached two-family dwelling to provide two side yards with a minimum size of five feet each. The existing building provides no side yards. A semi-detached two-family dwelling is considered a single building, even though the two dwelling units can be located on separate lots. Further, since it is a corner lot, the two side yards are located to the north and west. Given the foregoing, no side yard is required along the north lot line. However, the subject property is required to provide a west side yard. The applicants request a variance of five feet from the west side yard requirement.

VII. Applicants Justification for Variance

The applicant states that the original intended use of the property was residential and that strict application of section 3-1106(A)(2)(a) would prevent the use of the property as residence.

VIII. 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 applicants request a deviation of five feet from the west side yard requirement. The request is reasonable because it's the minimum amount necessary to allow for the dwelling to remain in its historical location, which dates to circa 1814. A deviation less than five feet would require partial demolition, which would require BAR approval, in order to provide the required yard.

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

Strict application of the zoning ordinance would unreasonably restrict the utilization of the property by requiring the partial demolition of the existing historic building in order to provide the required side yard. This demolition would require BAR approval. Strict application would allow for continued commercial utilization of the property, however, the purpose of the RM zone is to provide and maintain land areas for medium density residential neighborhoods. Nonresidential uses like child care, churches and schools are permitted in the RM zone but not commercial uses. While the noncomplying commercial use could continue at the property, it would be more out of

compliance with the RM zoning regulations in terms of side setbacks and permitted uses than the proposed residential use would be. Strict application of the zoning ordinance would unreasonably restrict utilization of the property as a residence, a permitted use in the RM zone.

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

This property is unique in that most other buildings on corner lots in the RM zone provide at least one complying side yard.

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

The purpose of the side yard setback requirement is to protect light and air supply to adjacent properties. However, there would be no increase in the dwelling's footprint within the required side yard setback. In fact, a smaller side yard is required for the proposed residential use than for the existing commercial use. As such, the proposed addition would have no impact to light and air supply to the adjacent properties.

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 to a use.

IX. 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.

Strict application of the zoning ordinance would unreasonably restrict the utilization of the property as a residential dwelling. Strict application would prevent any use of the property except for the continuation of the existing noncomplying commercial use.

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.

While the applicants are proposing to change the use to residential which triggers compliance with the west side setback, they are proposing to convert the use from a noncomplying use to a complying use. The applicants acquired the property interest in good faith and did not create the hardship.

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 the variance would not have any impact to adjacent or nearby properties because no changes to the structure are proposed.

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 current noncomplying commercial use of the property in a zone specifically intended for primarily residential uses is a unique situation.

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 result in a non-permitted use or a rezoning.

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.

The request is not eligible for special exception or modification processes.

X. Staff Conclusion

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

Staff

Sam Shelby, Urban Planner, sam.shelby@alexandriava.gov
Mary Christesen, Zoning Manager, mary.christesen@alexandriava.gov
Tony LaColla, Land Use Division Chief, Anthony.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.

Historic Preservation:

- C-1 The subject property is located in the locally regulated Old and Historic Alexandria District (OHAD). The proposed project will require approval of a Permit to Demolish/Capsulate and a Certificate of Appropriateness from the OHAD Board of Architectural Review (BAR).
- F-1 The subject property dates from approximately 1810.
- F-2 Staff does not object to the proposed side yard variance to change the use from commercial to residential.

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 Previously reviewed under [BAR2011-00124, BAR2013-00195, BAR2014-00401] (T&ES)
- F-2 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-3 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:

C-1 No comments received.

Recreation (City Arborist):

C-1 No comments received.

Historic Alexandria (Archaeology):

C-1 No comments received.

Other requirements brought 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 release of the building permit.



	on: 3-1106
	M. 6 1166
PAR	<u>T A</u>
1.	Applicant:
	Address 803 Prince Street
	Alexandria, VA 22314
	Daytime Phone 703-582-1807
	Email Address bseifert@ppwashdc.com
2.	Property Location 803 Prince Street
3.	Assessment Map # 074.0 Block 11 Lot 33 Zone
4.	Legal Property Owner Name Bradford & Nicole Seifert
	Address 803 Prince Street
	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
Bradford & Nicole Seifert	803 Prince Street	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 803 Prince Street, 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.

Address	Percent of Ownership
803 Prince Street	100%
	1

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 the12-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 Bradford & Nicole Seifert	None	None
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. I	Describe request briefly:
The subje	ect property, zoned RM, was constructed as a residence in 1810 and operated as such for over 175 years.
Prior to or	ur purchase of the property, the most recent owner, had the properties use changed from Residential to
Commerc	cial - it should be noted that the commercial use was non complying for this zoning. We would like to
bring the	property back to its original and intended use but the property does not share a party wall with 805
Prince Str	reet and therefore is required to have a 5 foot setback on the side yard. The property does not have a
setback a	and we request this requirement to be waived.
S	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 ocompensation, 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	
A	A. Explain how enforcement of the zoning ordinance would prevent reasonable use of the property. al intent of the property was residential and it operated as such for over 175 years. The property was
	as a residential property and the RM zoning allows such. We purchased the property to occupy as our
	sidence. The commercial use currently in place for the property is non-conforming and should never
	a allowed in the first place - the City should recognize the zoning and intended use of the property prior
	g use changes. Further the adjoining property at 805 Prince is a residential use and subject to the same
zoning and	d use restrictions. Enforcement of zoning would not allow the property to operate as originally envisioned.
	 Explain how the variance, if granted, would alleviate a hardship, as defined above.
	d setback variance would allow the properties to be changed to residential, the properties intended use
and occup	ancy class for all but a handful of years since is was constructed in 1810.

A.	Explain if the restriction or hardship is shared by other properties i the neighborhood.
No, this is no	ot unique to this property. Please see comment above regarding 805 Prince Street,
our adjoining	property which operates as a residence. This same issue has come in front of
he board on	multiple occasions, most recently at 1015 Duke Street - just a few blocks for this
property.	
В.	Does this situation or condition of the property (on which this application is based) generally apply to other properties in the same zone?
	zoning allows for residential use. Unless the City erred in allowing nonconforming
	r RM zoned properties I would assume this situation is unique to 803 Prince Street.
The variance	e required to allow a nonconforming use essentially made this property uninhabitable
as a residen	ce because of the setback restrictions.
A.	s the unreasonable restriction or hardship caused by the applicant? Did the condition exist when the property was purchased?
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A.	Did the condition exist when the property was purchased? Did the applicant purchase the property without knowing of the
A. Yes.	Did the condition exist when the property was purchased? Did the applicant purchase the property without knowing of the restriction or hardship?
A. Yes. B. Yes. The properties	Did the condition exist when the property was purchased? Did the applicant purchase the property without knowing of the restriction or hardship? perty was marketed as a residential property, listed on MLIS as a residential property, and all
A. Yes. B. Yes. The propagate of the p	Did the condition exist when the property was purchased? Did the applicant purchase the property without knowing of the restriction or hardship?

A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood in general. No. The adjacent property, located at 805 Prince Street, already operates as a residence. No other properties would be effected by the change. 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. Yes, the change has been discussed with the neighbors at 805 Prince Street and they strongly support the variance and believe the property should be restored to its original use of residential. A letter will be submitted at time of the hearing.		D.	Did the applicant create the unreasonable restriction or hardship and, if so, how was it created?
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would not be needed? Please explain each alternative and why it is unsatisfactory.	1.	would unsat	I not be needed? Please explain each alternative and why it is isfactory.
A variance is required for residential use.	A varia	ance is r	equired for residential use.

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	requested variance meets the required standards.
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	AR SHEET INCLUDED AS NO CHANGES TO FLOOR AREA RATIO ARE REQUESTED.

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 application. Planning & Zoning Department staff will be in contact with payment methods. Please recognize that applications will not be processed	the applicant regarding
■ Yes □ No I affirm that I, the applicant or authorized agent, am responsible this application and agree to adhere to all the requirements as Bradford L. Seifert	nd information herein.
Printed Name: Draulold L. Sellell Date:	12-26-2018
Signature:	
Pursuant to Section 13-3-2 of the City Code, the use of a document information may constitute a Class 1 misdemeanor and may result in a year in jail or \$2,500 or both. It may also constitute grounds to revoke the for with such information.	punishment of a

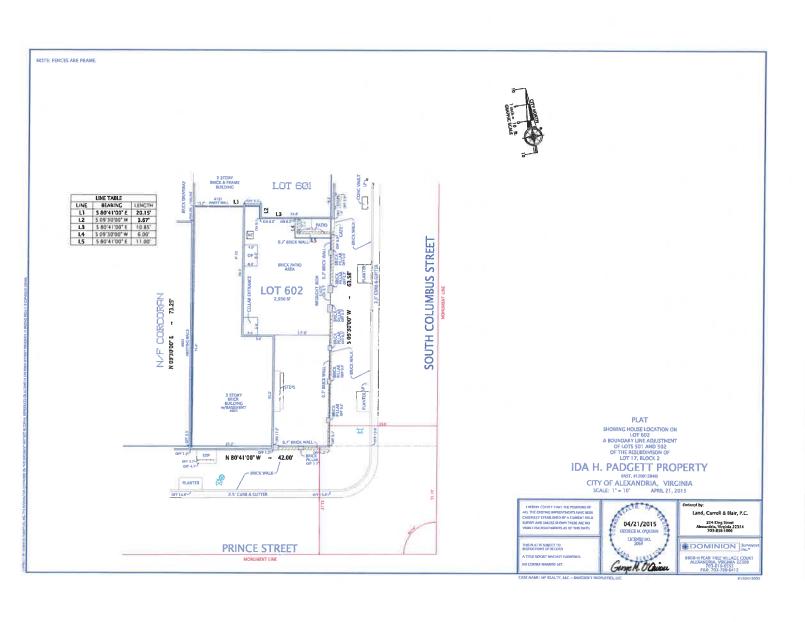
ATTENTION APPLICANTS

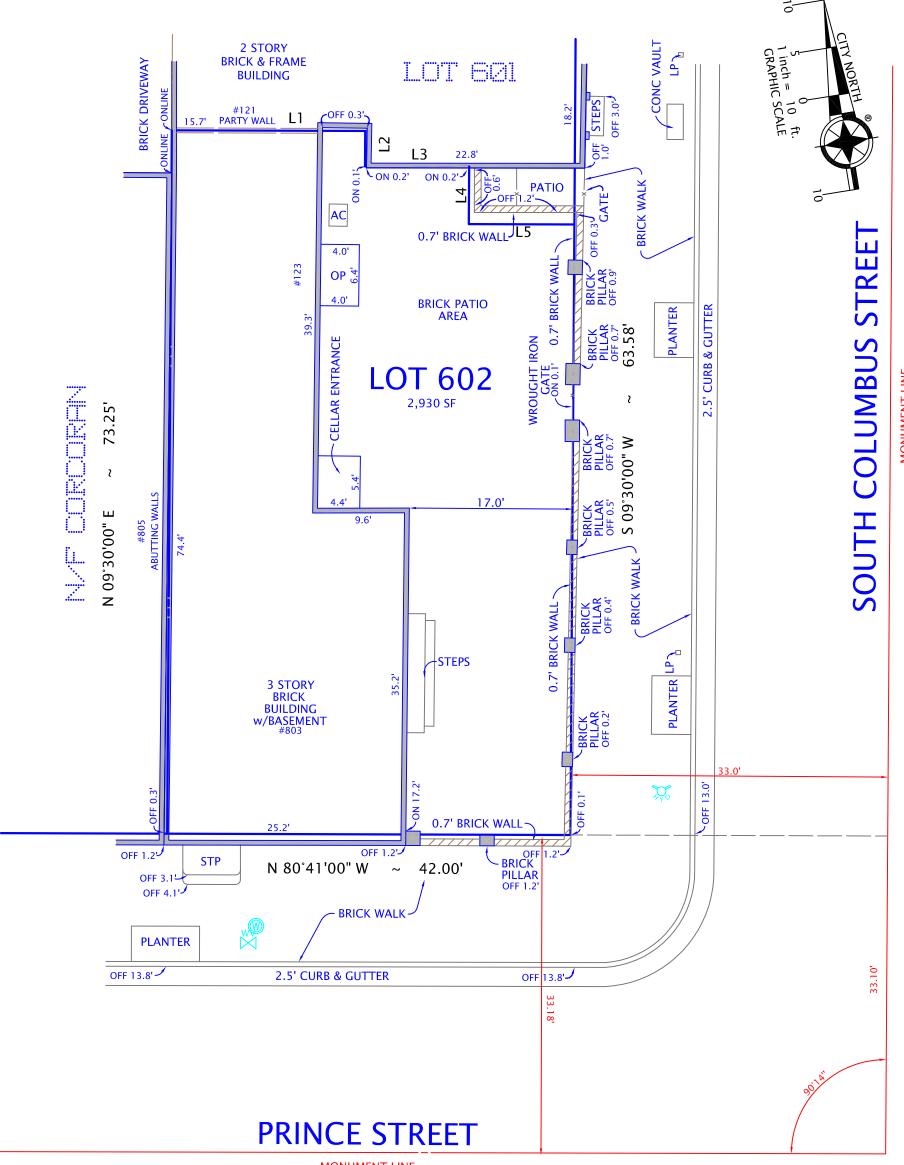
At the time of application for a Special Use Permit, Rezoning, Vacation, Encroachment, Variance, Special Exception or Subdivision, you must provide a draft of the description of your request you intend to use in the property owner's notice. You must be thorough in your description. Staff will review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

The example illustrates a detailed description:

"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.





MONUMENT LINE

LINE TABLE LINE **BEARING** LENGTH L1 S 80°41'00" E 20.15' L2 S 09°30'00" W 3.67' S 80°41'00" E L3 10.85' L4 S 09°30'00" W 6.00' L5 S 80°41'00" E 11.00'

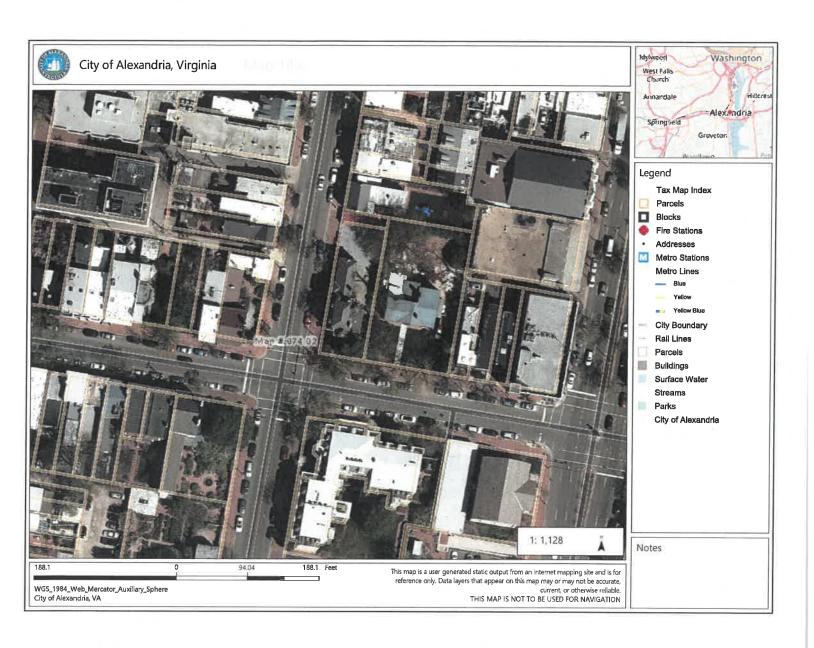
PLAT

SHOWING HOUSE LOCATION ON LOT 602 A BOUNDARY LINE ADJUSTMENT OF LOTS 501 AND 502 OF THE RESUBDIVISON OF LOT 17, BLOCK 2

IDA H. PADGETT PROPERTY

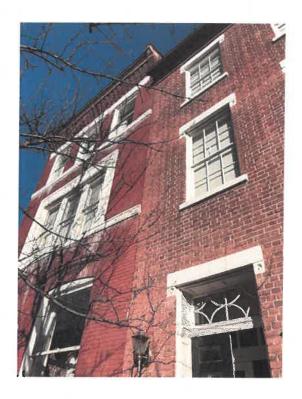
(INST. #120015848)

CITY OF ALEXANDRIA, VIRGINIA SCALE: 1" = 10' **APRIL** 21, 2015

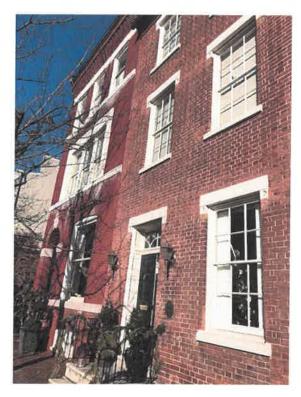


803 Prince Street Pictures









Images show walls abutting at 803 and 805 Prince Streets. This is the area for which the variance is requested.

Bradford L. Seifert

803 Prince Street, Alexandria, VA 22314 | 703.582.1807 | bseifert@ppwashdc.com

January 12, 2018

Recipient Name Title Company Address

City, ST ZIP Code

Dear Recipient Name:

My wife Nicole and I, owners of 803 Prince Street, are requesting a side yard setback variance for our homes boundary with the property at 805 Prince Street. The property at 803 Prince Street is zoned RM, which allows for residential use. The current use of the property is commercial, a non-conforming use under the RM zoning. A change back to residential use, the original use of the property, requires a variance because the walls separating 803 Prince Street and 805 Prince Street are freestanding and not party walls. As such the ordinances require a 5-foot setback between the properties. We are asking that this be waived.

As required by City law, we are notifying you of this requested variance because our properties either boarder each other or are in direct line of site. If you have any questions or concerns about this requested variance, please do not hesitate to contact me at 703-582-1807 or bseifert@ppwashdc.com.

Sincerely,

Brad Seifert