

Docket Item #3  
BZA #2021-00012  
Board of Zoning Appeals  
October 18, 2021

**ADDRESS:** 1117 QUEEN STREET  
**ZONE:** CL/ COMMERCIAL LOW  
**APPLICANT:** MATT GRAY, 1117 QUEEN STREET, LLC

**ISSUE:** A request for variances from side yard setback requirements, to construct a single-family dwelling.

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CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
4-106(A)(2)(a)	East Side Yard	10.33 feet*	1.50 feet	8.83 feet
	West Side Yard	9.83**	1.50 feet	8.33 feet

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*\*Based on a height of 31.00 feet as measured from the average existing grade to the top of the eave on the east side.*

*\*\*Based on a height of 29.50 feet as measured from the average existing grade to the top of the eave on the west side.*

Staff **recommends approval** of the requests because they meet the criteria for a variance.

If the Board grants the requested variances, it is subject to compliance with all applicable code requirements, ordinances, and recommended conditions found in the department comments. The applicant must submit a survey plat prepared by a licensed surveyor confirming building footprint, height and setbacks prior to all final inspections. 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.

**I. Issue**

The applicant proposes to increase the length of a single-family home by 4.50 feet, which requires a variance from the side yard setbacks.

**II. Background**

The subject property is one lot of record with 20.00 feet of lot frontage and width and 100.00 feet of lot depth. The property contains 2,000 square feet of lot area and is currently vacant. A new single-family dwelling will be constructed once the exterior design is approved by the Board of Architectural Review (BAR).

The property was developed with a residence prior to the City's first zoning ordinance. A building was on this property in 1877, although the exact construction date is unknown. The lot is shown on the 1885 Sanborn map as developed with a semi-detached building located at the front property line that was used as a residence and an outbuilding along the rear property line. The property owner applied to the Board of Architectural Review for demolition of the building in 1985. The subject property is located in the Parker-Gray Historic District and is regulated by the Board of Architectural Review.

On April 12, 2021, the Board of Zoning Appeals approved variances from lot size, lot frontage, front setback and side yard setbacks to construct a single-family dwelling. The applicant then worked on the design details with preservation staff and went before the BAR on July 21, 2021. The BAR deferred the case and recommended several changes to the overall design. Partially based on the feedback from BAR and preservation staff, the applicant decided to remove the front dormer and increase the length of the dwelling from 35.50 feet to 40.00 feet, which also resulted in shifting the rear portion of the third floor back 6.00 feet

**III. Description**

The applicant has received variances to construct a new single-family dwelling on the lot. The previously approved footprint for the building was 17.00 feet wide by 35.50 feet long. The applicant wishes to increase the length of the building to 40.00 feet, 4.50 feet longer than was previously shown to the BZA on April 12, 2021. The third-floor portion of the dwelling will be extended back 6.00 feet (from what was shown at the April 12, 2021 BZA hearing) with a 3.00-foot overhang to the rear at a height of 31.00 feet and the second story extension is 4.5 feet at a height of 23.5 feet. The extensions require additional variances from the side yard setbacks.

**Table 1. Zoning Table**

<b>CL Zone</b>	<b>Required/Permitted</b>	<b>Proposed</b>
<b>Lot Area</b>	5,000 sq. ft.	2,000 sq. ft.*
<b>Lot Frontage</b>	50.00 ft.	20.00 ft.*
<b>Front Yard</b>	20.00 ft.	8.00 ft.*

<b>Side Yard (east)</b>	10.33 ft.** (1:3, minimum 8 feet)	1.5 ft.
<b>Side Yard (west)</b>	9.83 ft.*** (1:3, minimum 8 feet)	1.5 ft.
<b>Rear Yard</b>	1:1, minimum 8.00 feet	52 ft.
<b>Open Space</b>	800 sq. ft. (40%)	849.00 sq. ft. (42.25%****)
<b>Floor Area Ratio</b>	Maximum 1,500 sq. ft. (.75)	1,420 sq. ft. (.71)
<b>Height</b>	35.00 ft.	31.00 ft.
<b>Parking</b>	2 spaces	2 spaces

\* Previously granted variances on April 12, 2021.

\*\*Based on a height of 31.00 feet as measured from the average existing grade to the top of the eave on the east side.

\*\*\*Based on a height of 29.50 feet as measured from the average existing grade to the top of the eave on the west side.

\*\*\*\*758.00 square feet of open space is located at ground-level and 91.00 square feet of open space is located on the second-floor roof deck.

#### IV. **Master Plan/Zoning**

In 1951, the property was zoned C3, Commercial and on June 24, 1992, the property was rezoned to CL, Commercial Low. The subject property is located in the Braddock Road Metro Station Small Area Plan. The northwest portion of this block of Queen Street is designated for existing lower density residential, the northeast and southeast portions of this block of Queen Street are designated for low density commercial and the southwest portion of this block of Queen Street is designated for central business district.

#### V. **Requested Variance:**

##### Side Yard 4-106(A)(2)(a)

Zoning Ordinance section 4-106(A)(2)(a) requires a side yard setback based on a 1:3 setback ratio with a minimum of 8.00 feet. Based on the 31.00-foot height at the east side and 29.50-foot height at the west side, the 9.00-foot rear portion of the third floor that has increased in height would be required to meet a 10.33-foot setback on the east side and a 9.83-foot setback on the west, for a single-family residential use in the CL zone. These setbacks would exceed the width of the 20.00-foot-wide lot. Based on the 23.50-foot height at the rear roof deck guards, the new 4.50-foot rear portion of the building would be required to meet two minimum side yard setbacks of 8.00 feet. The applicant requests a variance of 8.83 and 8.33 feet for the east and west side yard setbacks, respectively, to allow for two 1.50-foot side yard setbacks.

##### Conformance and Expansion 11-1107

While a variance to allow for 1.50-foot side yard setbacks was approved by the BZA in April 2021, the expansion of the length of the footprint of the proposed house and the

increase in height for the 9.00-foot rear portion of the third floor requires additional variances. Zoning Ordinance section 11-1107 states that any expansion of a structure within an area for which a variance is required, shall require an additional variance. Because the proposed additional 4.50-by-17.00 feet fall within a required side yard setback, and because the height within the 9.00-foot rear portion of the third floor increased in height, additional variances are needed for this expansion.

**VI. Applicants Justification for Variance**

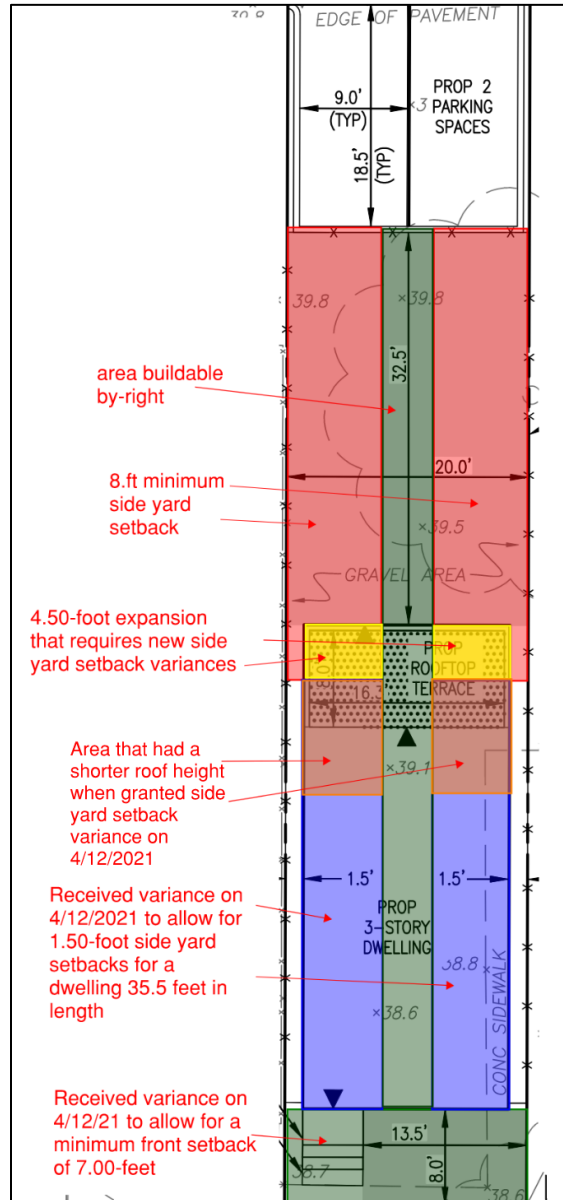
The applicant justifies the variance because he wishes to modify the footprint of the single-family dwelling by 4.5 feet to accommodate changes in the architecture based on conversations and feedback from the BAR and preservation staff. The minimum 8.00-foot side yard setback requirements make the lot unbuildable, as a building could only be 4.00 feet wide and still meet the required side yard setbacks.

**VII. Analysis of the 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 requests are 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 for an expansion of the building is a reasonable deviation from the provisions of the CL zone of the Zoning Ordinance. The minimum side yard setback requirements would make the property unbuildable and do not reflect the existing historic development character of this neighborhood. The side yard setback request of 1.50 feet reflects the existing side yard setbacks for all other single-family dwellings on this block.**



- b. The strict application of the zoning ordinance would unreasonably restrict the

utilization of the property.

**The minimum side yard setbacks would unreasonably restrict the property, as they would only allow for a 4.00-footwide building.**

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

**The need for variances from side setbacks to construct a new residence is rare, as there are few historically residential lots of record that are currently vacant in the CL zone. The need for a variance for side yard setbacks is somewhat common for residential buildings in the CL zone, as the side yard setbacks do not reflect the existing historic development pattern found throughout the CL zone. Therefore, anyone wishing to construct additions to dwellings that do not currently meet the minimum side yard setback for both side yards would have to request a variance.**

- d. The variances are not contrary to the purpose of the ordinance.

**The variances are not contrary to the purpose of the ordinance as they are consistent with the general historic development patterns of the neighborhood.**

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

**The variance to increase the length of the new single-family dwelling does not include a change in use. This lot was improved with one-half of a semi-detached dwelling sometime before 1877 and the property has been vacant since that dwelling was demolished in 1985.**

#### **VIII. Analysis of Variance Standards**

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

1. 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 two 8.00-foot side yard setbacks would only allow for a building 4.00-feet in width.**

2. 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.

**The lot first appeared on the Sanborn maps in 1885. The previous building, like all other residences on this block, would have been noncomplying with modern side yard setbacks. The current property owners acquired the lot in good faith and did not create any hardship resulting in the need of the variances.**

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 of the variances would not be detrimental to adjacent properties. The variances would allow the previously approved new dwelling to increase in length by 4.50 feet, for a total of 40 feet in length and allow for an extension of the third floor. This depth is consistent with the residential lots on this block, with five of the seven residential dwellings on this block having longer dwellings than what is proposed.**

4. 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 need for variances from side setbacks to construct a new residence is rare, as there are few historically residential lots of record that are currently vacant in the CL zone.**

5. 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 request for variances would not result in a use that is not permitted, as single-family residential is an allowed use in the CL zone.**

6. 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 two side yard setbacks to allow for an expansion requires a variance and there is no other process that would allow the proposed construction.**

#### **IX. Staff Conclusion**

As outlined above, staff **recommends approval** of the requested variances as they meet all of the standards and criteria as outlined within the Zoning Ordinance. If the Board decides to approve the requested variances, the approval would be subject to compliance with all applicable code requirements, ordinances and recommended conditions found in the departmental comments of this report.

#### Staff

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### 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:

#### RECOMMENDATIONS

- R-1 An approved GRADING PLAN must be attached to the building permit application. City Code Section 8-1-22(d) requires that a grading plan be submitted to and approved by T&ES prior to the issuance of building permits for improvements involving:
- the construction of a new home;
  - construction of an addition to an existing home where either
    - the addition exceeds the area of the existing building footprint by 100% or more;
    - or, the construction of the addition results in less than 50% of the existing first floor exterior walls, in their entirety, remaining;
  - changes to existing grade elevation of 1-foot or greater;
  - changes to existing drainage patterns;
  - land disturbance of 2,500 square feet or greater.

Questions regarding the processing of grading plans should be directed to the T&ES Site Plan Coordinator at (703) 746-4064. Memorandum to Industry No. 02-08 was issued on April 28, 2008 and can be viewed online via the following link.

**<http://alexandriava.gov/uploadedFiles/tes/info/gradingPlanRequirements.pdf>**

- R-2 The building permit plans shall comply with requirements of City Code Section 8-1-22 regarding the location of downspouts, foundation drains and sump pumps. Refer to Memorandum to Industry dated June 18, 2004. [Memorandum is available online at the City web site under Transportation\Engineering and Design\Memos to Industry.]. (T&ES)
- R-3 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
- R-4 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)
- R-5 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 grading plan. (T&ES)
- R-6 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet. An erosion and sediment control bond shall be posted prior to release of the grading plan. (T&ES)



- R-7 If construction of the residential unit(s) results in land disturbing activity in excess of 2500 square feet, the applicant is required to comply with the provisions of Article XIII of the City's Zoning Ordinance for stormwater quality control. (T&ES)

#### **CITY CODE REQUIREMENTS**

- 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).
- 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.
- 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.8-1-22)
- C-4 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3)
- C-5 Pay sanitary sewer tap fee prior to release of Grading Plan. (Sec. 5-6-25)
- C-6 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-3-61)

#### Code Administration:

A building permit and plan review are required prior to the start of construction.

#### Recreation (City Arborist):

No comments received

#### Historic Alexandria (Archaeology):

#### **FINDINGS**

1. Historic maps indicate that a dwelling stood at 1117 Queen St. by the mid-nineteenth century. By the 1960s the building was no longer standing and the lot has remained vacant since. The property may contain significant archaeological evidence about the growth and development of Alexandria in the second half of the nineteenth century.

#### **RECOMMENDATIONS**

1. \*The applicant/developer shall call Alexandria Archaeology immediately (703-746-4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during development. Work must cease in the area of the discovery until a City archaeologist comes to the site and records the finds.

2. \*The applicant/developer shall not allow any metal detection to be conducted on the property, unless authorized by Alexandria Archaeology.
3. The statements in archaeology conditions above marked with an asterisk "\*" shall appear in the General Notes of all site plans and on all site plan sheets that involve demolition or ground disturbance (including Basement/Foundation Plans, Demolition, Erosion and Sediment Control, Grading, Landscaping, Utilities, and Sheeting and Shoring) so that on-site contractors are aware of the requirements.

Historic Preservation (P&Z):

Design of new building must be approved by the Board of Architectural Review