



APPLICATION FILED: February 3, 2006
BOARD OF ZONING APPEALS: April 18, 2006
TIME: 9:00 a.m.

County of Fairfax, Virginia

April 11, 2006

STAFF REPORT

VARIANCE APPLICATION NO. VC 2006-DR-002

DRANESVILLE DISTRICT

APPLICANTS/OWNERS: Elaine Metlin
Andrew E. Clark

SUBDIVISION: Franklin Park

STREET ADDRESS: 1905 Rhode Island Avenue

TAX MAP REFERENCE: 41-1 ((13)) (1) 36B

LOT SIZE: 24,457 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISION: 18-401

VARIANCE PROPOSAL: To permit existing fence greater than 4.0 feet in height to remain in the front yard of a corner lot and an accessory structure to remain in the front yard of a lot containing 36,000 square feet or less

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

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Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Department of Planning and Zoning

Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

DESCRIPTION OF THE APPLICATION

To permit an existing fence greater than 4.0 feet in height to remain in the front yard of a corner lot and an accessory structure to remain in the front yard of a lot containing 36,000 square feet or less.

Description of Variances

Variance #1

In discussion with the Senior Zoning Inspector, the fences on the property are all over 4.0 feet in height as well as in some locations over 6.0 feet in height. The highest point is 7 feet 4 inches in height. There are four (4) gate posts on the property measuring 7 feet 6 inches in height, which are permitted by-right.

Variance #2

Paragraph 12C of Section 10-104 of the Fairfax County Zoning Ordinance states that no accessory structure or use shall be located in any minimum required front yard on any lot or in any front yard on any lot containing 36,000 square feet or less.

CHARACTER OF THE AREA

	Zoning	Use
North	R-2	Single family detached dwellings
South	R-2	Single family detached dwellings
East	R-2	Single family detached dwellings
West	R-2	Single family detached dwellings

BACKGROUND

A Notice of Violation (NOV) was issued to the applicants on November 10, 2005. A copy of the NOV is attached as Appendix 4. A front yard determination letter is also included in Appendix 4.

Records indicated the dwelling was originally constructed in 2002.

The applicants purchased the property in late 2003 and moved into the home in January 2004. The applicants state that the fences and the play equipment existed in their current locations when they purchased the property.

Staff from the Department of Public Works and Environmental Services (DPWES) contacted Zoning staff and indicated that the play equipment was not permitted in its current location because it is within a Resource Protection Area (RPA), unless the applicants provide proof that the play equipment was put in its current location prior to November 18, 2003, when the current RPA regulations became effective. The original owners of the property received an RPA Exception to permit construction of a single family detached dwelling in 2001 with permitted clearing; however, did not indicate that an accessory structure would be built. Attached as Appendix 5 is a reduction of the original grading plan for the subject property indicating the area approved to be cleared. Since the discussion with DPWES regarding the play equipment, the applicants have been able to verify that the play equipment was built prior to November 18, 2003, and therefore, an exception review would not be required.

Attached as Appendix 6 is a memorandum from DPWES addressing their concerns. Also, as a result of a comment from DPWES regarding the deck being located within a minor floodplain, attached, as Appendix 7, is building permit history for the lot which indicates that a building permit was issued for its construction. According to DPWES staff, since the building permit was issued for the deck prior to November 18, 2003, the applicants will not be required to submit an RPA exception request for the deck.

Following the adoption of the current Ordinance, the BZA has heard the following similar variances in the vicinity of the application parcel:

- Variance VC 97-D-006 was approved on April 9, 1997 for Tax Map 41-1 ((13)) (9) 33, zoned R-2, on North Kensington Street, to permit construction of addition 10.4 feet from side lot line, accessory structure 8.4 feet from side lot line and accessory structure in the front yard of a lot containing less than 36,000 square feet.

ZONING ORDINANCE REQUIREMENTS

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

This variance application must satisfy all of the nine (9) enumerated requirements contained in Sect. 18-404, Required Standards for Variances. If the BZA determines that a variance can be justified, it must then decide the minimum variance which would afford relief as set forth in Sect. 18-405. A copy of these provisions is included as Appendix 8.

CONCLUSION

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification and Attachments
4. Notice of Violation dated November 10, 2005 and Attachments
5. Approved Grading Plan dated November 27, 2001
6. Memorandum from DPWES dated March 30, 2006
7. Building Permit History
8. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

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1. This Variance is approved for the location of fences and accessory structure (play equipment) as shown on the plat prepared by Stephen L. Moore, dated December 5, 2005, as revised through April 3, 2006, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.