



APPLICATION ACCEPTED: September 18, 2006
BOARD OF ZONING APPEALS: December 12, 2006
TIME: 9:00 a.m.

County of Fairfax, Virginia

December 5, 2006

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SPA 93-M-054

MASON DISTRICT

APPLICANT/OWNERS: Oved Zucker and Farida Lim

STREET ADDRESS: 6829 Little River Turnpike

TAX MAP REFERENCE: 71-2 ((01)) 12B

LOT SIZE: 1.35 acres

ZONING DISTRICT: R-2, HC

ZONING ORDINANCE PROVISION: 8-922

SPECIAL PERMIT PROPOSAL: To amend SP 93-M-054 to permit reduction of certain yard requirements to permit the construction of an addition 23.41 feet from the front lot line.

STAFF RECOMMENDATION: Staff recommends approval-in-part of SPA 93-M-054 for the second story addition to the garage only, subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

N:/varga/spa/zucker-lim/staffreport

Department of Planning and Zoning

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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.**



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).

DESCRIPTION OF THE APPLICATION

The applicant requests approval to permit a reduction to certain yard requirements to permit the construction of a two story addition consisting of a second story addition above an existing two-car garage and an additional two-story addition which will extend the dwelling's footprint along the perimeter of the existing two-car garage. The addition will include three additional bedrooms, an office, the expansion of the existing garage for a third car, and additional storage and workshop space. The addition will total approximately 905 sq. ft., including the creation of 376 sq ft. of additional impervious surface within the RPA.

Description of Special Permit

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	Dwelling	Front	30.0 feet	23.4 feet	6.6 feet	22.0%

*Minimum yard requirement per Section 3-207

EXISTING SITE DESCRIPTION

The site is currently zoned R-2, HC and is developed with a 3,276 sq ft. single family detached dwelling originally built in 1984. The property has an existing concrete driveway that extends from Little River Turnpike via a 24 ft. wide ingress/egress easement to an attached two car garage on the eastern side of the dwelling. The majority of the property (on which all built structures are located) is situated within a Resource Protection Area (RPA) and Environmental Quality Corridor (EQC). Additionally, the center of the property contains a floodplain easement due to the flow of Indian Run Stream through the property. An approximately 1,200 sq. ft. wooden deck is located to the rear of the dwelling, a portion of which extends into the floodplain easement. A storm drainage easement traverses a portion of the eastern lot line, as well as a 15 ft. wide sanitary sewer easement. The sanitary sewer easement branches off to a 20 ft. wide sanitary sewer easement running east to west through the center of the property. A six foot high wooden fence runs along a portion of the western and eastern lot lines.

As depicted on the plat located at the front of the staff report, the existing yards are

	Required	Existing
Front	35 ft.	29.6 ft.*
Rear	25 ft.	326.7 ft.
Side (east)	15 ft.	40 ft.
Side (west)	15 ft.	20.9 ft.

* approved in conjunction with SP 93-M-054 (building in error)

CHARACTER OF THE AREA

	Zoning	Use
North	R-2, HC	Single Family Detached Dwellings
East	R-5, HC	Townhouse Development
South	R-2, HC	Single Family Detached Dwellings
West	R-2, HC	Single Family Detached Dwellings

BACKGROUND

In 1983, a building permit was issued for the construction of a 2,080 sq ft. single family dwelling. County tax records indicate the dwelling was constructed in 1984. In 1986, a building permit was issued for the construction of a 252 sq ft. addition to the western side of the dwelling. In 1993, the owners applied for a building permit to construct a 1,000 sq ft. addition to the western section of the house. The applicant states that only 575 sq ft. of this approved amount was ultimately constructed.

County staff discovered at that time that the dwelling did not meet minimum front yard requirements. On January 4, 1994, the Board of Zoning Appeals approved SP 93-M-054, which permitted a reduction to minimum yard requirements based on an error in building location to allow the dwelling (garage) to remain 29.6 ft. from the front lot line. A copy of the resolution and approved plat are contained in Appendix 4. The addition was

subsequently completed in 1994.

The approved site plan associated with the 1986 building addition reveals the existence of an approximately 420 sq ft. wooden deck, of which a portion extends into the floodplain easement. County records do not indicate that a building permit was applied for or granted to the previous owner for this construction. Additionally, the applicant's 2006 plat indicates that the deck has increased in size to approximately 1,200 sq ft.

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Zucker Residence, Cover Sheet & Plat

Prepared By: Michael James Stansbury

Dated: August 4, 2006, revised September 12, 2006

Proposal:

The applicants request approval to permit a reduction to the minimum front yard requirement to permit the construction of a two story addition which will consist of a second story addition above an existing two-car garage (totaling 529 sq ft.), and a 376 square foot two-story portion which will extend the dwelling's footprint along the perimeter of the existing two-car garage for a total of 905 square feet. This will create 376 square feet of additional impervious surface within the RPA and EQC. The addition will comprise three additional bedrooms, an office, the expansion of the existing garage for a third car and additional storage and workshop space. The addition will result in a total gross floor area of 4,181 sq ft., which is an increase in size of 27.6 percent.

The existing one story garage is 29.6 ft. from the front lot line, which is a reduction of 5.4 ft. to the minimum required front yard, as approved in conjunction with SP 93-M-054.

Environmental Analysis (Appendix 5)

Issue: Environmental Quality Corridor (EQC) and Resource Protection Area (RPA)

The application property is subject to the County's Chesapeake Bay Preservation Ordinance (CBPO) and the majority of the subject property was designated as an RPA under the CBPO in 1993, including the entire area of the proposed addition. Additional land was added to the Indian Run RPA in 2003. An EQC as defined under the Fairfax County Policy Plan is also located in the subject property, and is coincident with the RPA boundary. The County's EQC policy is designed to protect the County's stream valleys, including the 100-year floodplain and a buffer to maintain and protect water

quality and natural habitat.

The existing house on the property was constructed in 1984, including a rear deck which extends into the 100-year floodplain. An addition of 252 sq ft. to the west section of the house was approved in 1986, prior to the RPA designation. A second addition to the east section of the house was approved for 1,000 sq ft. in 1993, as evidenced by the building permit contained within Appendix 10. This addition was constructed in 1994, subsequent to the RPA designation. The applicant states that the addition only comprises 575 sq ft. (not 620 square feet as stated in the Environmental Analysis) of impervious surface. The proposed development under this application would add 376 sq ft. of impervious area all within the RPA/ EQC. An administrative waiver request to the RPA regulations must be submitted to DPWES which may permit approval of up to 1,000 additional sq ft. of impervious area, including the area of all previous additions to the original house (since the RPA designation). However, given the environmental sensitivity of the subject property, the current proposed addition should be limited to only the construction of the second floor addition (over the existing garage) which would not increase the footprint of the existing structure and therefore not increase impervious surface on the subject property. Maintenance of the existing footprint would provide maximum protection for the Indian Run RPA. The SPA plat should be revised to show the RPA and EQC, and the deletion of the additional 376 square feet of impervious area. All activity related to the RPA on the subject property should be coordinated with staff in the Department of Public Works and Environmental Services (DPWES).

Resolution:

The applicant has not provided a revised plat which eliminates the expansion of the dwelling further into the RPA/EQC, nor has the applicant provided a revised plat which shows the RPA and EQC areas.

Transportation Analysis (Appendix 6)

There are no transportation issues regarding this application.

ZONING ORDINANCE REQUIREMENTS (Appendix 12)

Applicable bulk regulation(s) and additional location regulations are set forth previously in this report.

The application must meet all of the following standards, copies of which are attached as Appendix 12:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

Sect. 8-006 General Special Permit Standards

Staff believes that the application does not meet General Special Permit Standards 1 and 2. The issues regarding these standards are discussed below.

General Standards 1 and 2 require that the proposed use at the specified location shall be in harmony with the adopted comprehensive plan, and shall be in harmony with the general purpose and intent of the applicable zoning district regulations. The applicant requests approval to permit a reduction to the front yard requirement to permit the construction of a second story addition above an existing two-car garage (totaling 529 sq ft.) which is proposed to encroach into the front minimum yard as the garage below it had done, and a 376 sq ft. two-story portion of the addition which will extend the dwelling's footprint along the perimeter of the existing two-car garage, thus creating 376 sq ft. of additional impervious surface within the RPA and EQC.

The proposed development is in conflict with the land use and environmental goals and policies of the Comprehensive Plan. The land use goals state that: ". . . Development in Fairfax County should be sensitive to the natural setting, in order to prevent degradation of the County's natural environment." The environmental goals in the Comprehensive Plan designate Environmental Quality Corridors (EQC) as areas preserved to, among other things, reduce pollution. Development of any kind in the EQC/RPA presents a potential for water quality degradation and interference with the natural habitat in the EQC/RPA. Staff requested that the applicant construct only that portion of the proposed addition which would be located above the existing garage to prevent further, or additional harm to Indian Run stream. An administrative waiver may be permitted for up to a total of 1,000 additional sq ft. of impervious area to a designated RPA/EQC area, including the area of previous additions (not including the addition that predates the RPA designation) to the original house. Notwithstanding the approved building permit for a 1000 square foot addition, the applicant states that the 1994 addition is only 575 square feet in size, thereby resulting in a total increase of impervious surface of approximately 868 sq ft. Based on the applicant's statement to the size of the 1994 addition, the current proposal would not eclipse the 1,000 square foot maximum allowable with approval of an RPA Waiver by the Department of Public Works and Environmental Services (DPWES). However, given the environmental sensitivity of the subject property and the near-maximization of allowable impervious surface additions, the current proposed addition should be limited to the second story addition totaling approximately 529 sq ft. above the existing garage, thereby avoiding an increase to the footprint of the existing structure and providing maximum protection for the Indian Run RPA/EQC area.

Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. Staff believes that the application as

proposed does not meet all of the remaining standards, specifically Standards 8. Standards 4, 6, 7, 8, and 9 are discussed in detail below.

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. The existing structure is 3,276 square feet. Therefore 150% of the total gross floor area could result in an addition up to 4,914 square feet in size for a possible total square footage at build out of 8,190 square feet. The proposed addition comprises 905 net square feet. Upon completion, the dwelling will comprise a total square footage of 4,181 square feet. Therefore the application meets this provision.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. A site visit and evaluation of the photographs and elevation drawings submitted indicate that the materials, size and scale of the proposed addition will be compatible with the existing structure. The proposed addition will be two stories in height around the perimeter of the existing garage including that area directly above the existing garage, as indicated in the elevation drawings at the front of the staff report. The addition will feature construction materials which will match the existing structure. Staff believes that the application meets this provision.

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. A site visit and evaluation of the photographs submitted and elevation drawings indicate that the proposed improvements are compatible with the surrounding houses in the neighborhood. Most of the houses in the neighborhood are two stories in height, comprised of siding construction, and share similar square footage calculations. Staff believes that the application meets this provision.

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. The Department of Public Works and Environmental Services (DPWES) has indicated that there are no drainage complaints on file related to this property. However, the majority of the property is located within the RPA and EQC, including the entire existing dwelling and the proposed addition. The additional impervious surface proposed by the applicant could adversely impact the natural function of the EQC/RPA, including additional runoff resulting in an increased burden on Indian Run. The applicant's current proposal would add a total of 376 sq ft. of additional impervious surface to the subject property. An administrative waiver may be permitted for up to a total of 1,000 additional sq ft. of impervious area to a designated RPA/EQC area, including the area of previous

additions to the original house. The applicant states that the 1994 addition comprises only 575 sq ft., thereby resulting in a total increase of impervious surface of approximately 868 sq ft. Based on the applicant's statement to the size of the 1994 addition, the current proposal would not surpass the 1,000 square foot maximum allowable by approval of an RPA Waiver by DPWES. Given this requirement, and the environmental sensitivity of the subject property, staff believes that the current proposed addition should be limited to the second story addition totaling approximately 529 sq ft. above the existing garage, thereby avoiding an increase to the footprint of the existing structure and providing maximum protection for the Indian Run RPA/EQC area. This second story addition would still provide several new rooms and a two car garage on site.

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. This Standard states that some of the specific factors that should be considered for a determination on the requested reduction are the associated yard designations of the lot and environmental characteristics of the site. A reduction to existing yards was granted in 1994 when the special permit for a building in error was approved to permit the existing garage to remain 29.6 feet from the front lot line (35 feet is required). Under this application, a second story addition is proposed over this garage. This would allow the addition of several new rooms onto the dwelling and a two car garage would still be maintained on the site. The remaining proposed two story portion of the addition would extend the dwelling further into an existing RPZ/EQC which would require the approval of an RPA waiver.

Though the 529 sq ft. addition above the garage would comprise additional square footage in the minimum front yard, staff believes that this portion of the addition (58.5 percent of the applicant's proposal) could satisfy the applicant's wish for the construction of two additional bedrooms and meet the intent of the Comprehensive Plan by protecting the Indian Run EQC/RPA area from further intrusions associated with increasing the impervious surface on site.

CONCLUSION

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions ONLY with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval in-part of SPA 93-M-054 for the construction of a second story addition only, subject to the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Resolution and approved SP plat for SP 93-M-054
5. Environmental Analysis
6. Transportation Analysis
7. Deed and Grading Plan
8. Building Permit, dated October 25, 1983
9. Residential Use Permit, issued June 25, 1984
10. Building Permit, dated November 14, 1986
11. Building Permit, dated June 24, 1993
12. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SPA 93-M-054****December 5, 2006**

If it is the intent of the Board of Zoning Appeals to approve SPA 93-M-054 located at Tax Map 71-2 ((01)) 12B, to amend SP 93-M-054 to permit reduction of certain yard requirements pursuant to Section 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recordation shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. Notwithstanding shown on the SPA Plat, this special permit amendment is approved for the location and size (approximately 529 square feet) of the proposed second story addition only, located directly above the existing two-car garage as shown on the plat prepared by Michael James Stansbury, dated August 4, 2006 as revised through September 12, 2006, as submitted with this application and is not transferable to other land.
3. Other by-right uses on site shall be permitted without an amendment to this special permit.
4. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of any addition(s) to the existing single family detached dwelling may be up to 150 percent of the total gross floor area of the dwelling that existed at the time of the first expansion request (3,276 sq ft.). Any subsequent additions, regardless of whether such addition(s) complies with the minimum yard requirements or is the subject of a subsequent special permit or variance, shall be subject to the initial 150 percent limitation.
5. The addition shall be consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
6. Prior to the issuance of a building permit for the addition, the applicant shall apply for and gain approval for either an RPA Exception or an RPA Waiver as determined necessary by DPWES.

7. Prior to the issuance of a building permit for the addition, a building permit and final inspections shall be approved for the existing deck.

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.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.