



APPLICATION ACCEPTED: March 26, 2007
BOARD OF ZONING APPEALS: June 12, 2007
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 5, 2007

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2007-PR-033

PROVIDENCE DISTRICT

APPLICANT/OWNERS: Susan K. Huber

SUBDIVISION: Oakton Mains

STREET ADDRESS: 3008 Oakton Meadows Court

TAX MAP REFERENCE: 47-2 ((27)) 019

LOT SIZE: 3,870 square feet

ZONING DISTRICT: R-5

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit deck to remain 0.7 feet from side lot line

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

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 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.**



American with Disabilities Act (ADA): For special accommodations, call 703-324-1334 (TTY 711 Virginia Relay Center) seven days in advance of the meeting to make the necessary arrangements.

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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 reduction to minimum yard requirements based on error in building location to permit a deck to remain 0.7 feet the from the side lot line.

	Structure	Yard	Min. Yard Req.*	Permitted Extension	Structure Location	Amount of Error	Percent of Error
Special Permit	Deck	Side	8.0 feet	N/A	0.7 feet	7.3 feet	91.3 %

*Minimum yard requirement per Section 3-407

ANALYSIS OF THE APPLICATIONS

- **Title of Plat:** Special Permit, Lot 19 Oakton Mains, Fairfax County, Virginia
- **Prepared by:** Peter R. Moran, dated November 15, 2005, revised March 20, 2007
- **Building Permits required:** Yes; however, not obtained.
- **Errors Made by:** A prior owner

CHARACTER OF THE AREA

	Zoning	Use
North	R-5	Single Family Attached Dwellings
East	R-5	Single Family Attached Dwellings
South	R-5	Single Family Attached Dwellings
West	R-5	Single Family Attached Dwellings

BACKGROUND

Records indicate the dwelling was originally constructed in 1984. The applicant states the property was purchased in 2004. At that time the applicant had no knowledge that the deck, which extends into the side yard from the upper floor, violated the side yard requirements of the Zoning Ordinance, until a notice of violation was issued to the applicant on August 26, 2005 (Appendix 4) by the Zoning Enforcement Branch. The applicant states that the deck was in existence when she purchased the property and was present when purchased by the prior owner.

The BZA has not heard any similar special permit applications for building in error in the vicinity of the application parcel.

ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provision for Approval of Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

CONCLUSION

If it is the intent of the BZA to approve SP 2007-PR-033 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 issued to the applicant on August 26, 2005
5. Applicable Special Permit Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2007-PR-033

June 5, 2007

1. This special permit is approved for the location of the deck, as shown on the plat prepared by Peter R. Moran, dated November 15, 2005, revised March 20, 2007, submitted with this application and is not transferable to other land.
2. Building permits and final inspections for the screened porch addition shall be obtained within 90 days of final approval or this Special Permit shall be null & void.

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.