



APPLICATION FILED: May 25, 2007  
BOARD OF ZONING APPEALS: August 7, 2007  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

July 31, 2007

## STAFF REPORT

### SPECIAL PERMIT APPLICATION NO. SP 2007-HM-054

#### HUNTER MILL DISTRICT

**APPLICANT:** Stephanie Bollini

**OWNERS:** Stephanie E. Bollini  
Nicholas R. Bollini

**SUBDIVISION:** Lawyers North

**STREET ADDRESS:** 2222 Carmichael Drive

**TAX MAP REFERENCE:** 38-1 ((20)) 22

**LOT SIZE:** 15,278 square feet

**ZONING DISTRICT:** R-2 (Cluster)

**ZONING ORDINANCE PROVISIONS:** 8-914 and 8-922

**SPECIAL PERMIT PROPOSALS:** To permit reduction to minimum yard requirements based on building in error to permit deck to remain 6.0 feet from side lot line and to permit reduction of certain yard requirements to permit construction of an addition 5.0 feet from side lot line such that side yards total 20.4 feet.

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2007-HM-054 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.

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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/](http://www.fairfaxcounty.gov/dpz/)

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.

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.

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 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.**



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

This application includes three special permit requests. The first is to permit reduction to minimum yard requirements based on error in building location to permit an existing deck to remain 6.0 feet from the side lot line.

### Description of Special Permit #1

	Structure	Yard	Min. Yard Req.*	Permitted Extension**	Min. Allowed	Structure Location	Amount of Error	Percent of Error
<b>Special Permit</b>	<b>Deck</b>	Side	8.0 feet	N/A	8.0 feet	6.0 feet	2.0 feet	25%

\* Minimum yard requirement per Section 3-207

The second request is to permit reduction to certain yard requirements to permit construction of a two car garage in place of a one car garage and a one car parking space, to be located at its closest point 5.0 feet from the side lot line. The purpose is to update an existing one car garage and create a two car garage addition.

### Description of Special Permit #2

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
<b>Special Permit</b>	<b>Addition</b>	Side	8.0 feet	5.0 feet	3.0 feet	38%

\*Minimum yard requirement per Section 3-207

The third request is to permit total side yards of 20.4 feet, instead of the required 24.0 feet.

### Description of Special Permit #3

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
<b>Special Permit</b>	<b>Addition</b>	Total Side Yards	24.0 foot Total	20.4 foot Total Side Yards	3.6 feet	15%

## EXISTING SITE DESCRIPTION

The site is currently zoned R-2, cluster development, and is developed with a single family detached dwelling, built in 1970. The existing southern side yard is 16.1 feet where 8.0 feet is required in the R-2 Cluster District; the existing rear yard is 80.7 feet where 25 feet is required; and, the existing front yard is 32.3 feet where 25.0 feet is required.

## CHARACTER OF THE AREA

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	R-3	Single Family Detached Dwellings
<b>East</b>	R-3	Single Family Detached Dwellings
<b>South</b>	R-3	Single Family Detached Dwellings
<b>West</b>	R-3	Lawyers North Civic Association Inc., Open Space

The adjacent dwelling to the south, on Lot 23, is located approximately 53.8 feet from the shared side lot line.

## ANALYSIS OF APPLICATIONS

### Special Permit Plat (Copy at front of staff report)

**Title of SP Plat:** Plat, Showing the Improvements on Lot 22, Section One, Lawyers North, Fairfax County, Virginia, Hunter Mill District

**Prepared By:** Dominion Surveyors Inc.

**Dated:** February 5, 2007 as revised through April 25, 2007

**Building Permits required:** Yes and were obtained; however, the deck was constructed closer to the lot line than approved by permit.

**Errors Made by:** Applicant

### Proposal:

The applicant requests approval to permit reduction of certain yard requirements to permit construction of a two car garage addition to be located 5.0 feet from the northern side lot line. The purpose of the addition is to replace an existing one car garage and a concrete parking space with the proposed two car garage addition. The footprint of the new construction will not exceed the footprint of the existing garage, along with its concrete parking space, to the side lot line.

During the applications acceptance process, it was noted that the applicant's deck was constructed too close to the side lot line. The applicant had hired a contractor who obtained building permit to construct the deck 8.0 feet from the side lot line; however, upon review of the current plat, the actual location is closer to the lot line than is permitted; therefore, the applicant's have requested the error in building location for the deck to remain in its current location.

## **BACKGROUND**

Records indicate the dwelling was originally constructed in 1970. The homeowners obtained a building permit on August 20, 2003, to construct a deck to be located 8.0 feet from the side lot line. The building permit did not have a plat associated with it. Upon review by Applications Acceptance staff for this special permit application, it was discovered that the deck was constructed too close to the side lot line, therefore requiring the special permit for building in error.

Following the adoption of the current Ordinance, the BZA has not heard any similar special permits in the vicinity of the application parcel.

## **ZONING ORDINANCE REQUIREMENTS** (Appendix 4)

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

The application meets all of the following standards, copies of which are attached as Appendix 4:

- 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 meets all of the 8 General Special Permit Standards. Of particular note regarding this application are General Standards 3 and 5.

*General Standard 3* requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *Staff believes by observation of the neighborhood through submitted photographs and by a site visit made to the property that the replacement of the existing garage addition with a proposed two car garage addition will not adversely affect the use or development of neighboring properties. Staff believes that the request is minimal and is the most logical location for the addition on the property and therefore this standard has been met.*

*General Standard 5* requires that in addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13. *The proposed garage addition would replace an existing garage and a concrete slab parking space and therefore the footprint for parking on-site will remain the same as currently exists on the property with regard to the side lot line. The adjacent homeowner has an existing row of Leyland Cypress trees which provide ample vegetation between the two lot lines. Staff does not believe any additional vegetation is required.*

### **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 has met all of the remaining standards, specifically Standards 4, 6, 7, 8, and 9.

*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 3,614 square feet. Therefore 150% of the total gross floor area could result in an addition up to 5,421 square feet in size for a possible total square footage at build out of 9,035. The proposed two car garage addition totals 495 square feet, for a total square footage of the house with the addition of 4,109 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. *The elevation drawings submitted indicate that the materials, size and scale of the proposed addition will be compatible with the existing structure. The proposed two car garage addition would not create any additional height to the overall existing structure and it would cause little additional bulk on the property since it would be replacing an existing garage and concrete slab parking space with a two car garage addition. Therefore, 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. *With review of the photographs submitted and a site visit conducted, staff believes that the proposed improvements are compatible with the surrounding houses in the neighborhood. It is noted that a garage addition currently exists on the property and that the request is to replace that existing one car garage with a two car garage addition to the home. The*

*topography of the rear yard with a steep slope downward makes the location of the structure the only logical location. As stated by the applicant, and as was seen by staff during a site visit, the current one car garage addition was constructed with a sloping floor and cannot accommodate a vehicle with the slope within the garage. Also, the existing concrete slab is closer to the side lot line than what will be permitted with the enclosure of the two car garage; therefore the overall bulk will be reduced with the removal of some of the existing concrete. The surrounding neighborhood contains homes both with carports and garages. Therefore, 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. Staff believes that the application meets the erosion and stormwater runoff portion of the standards since the Department of Public Works and Environmental Services (DPWES) has indicated that there are no drainage complaints on file related to this property. Staff believes that the creation of the two car garage by replacing an existing one car garage with a concrete parking slab will have very little impact on stormwater runoff, noise, light, air, safety or erosion since the overall footprint will be smaller than what exists currently on the property. Staff believes that the application meets this provision.*

*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. The location of the addition on the side of the existing dwelling will replace an existing one car garage and create a two car garage addition. As mentioned previously, the rear yard has a steep slope and would not be able to accommodate an addition of this nature. As shown in the photographs presented at the front of the staff report, the applicant's property has ample vegetation; therefore, staff does not believe that additional vegetation is warranted. Other issues of well and/or septic, easements, floodplains and/or Resource Protection Areas and preservation are not applicable to this site. Staff believes that the application meets this provision.*

## **CONCLUSION**

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

## **RECOMMENDATION**

Staff recommends approval of SP 2007-HM-054 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.

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.

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 and Architectural Rendering
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2007-HM-054****July 31, 2007**

If it is the intent of the Board of Zoning Appeals to approve SP 2007-HM-054 located at Tax Map 38-1 ((20)) 22, to permit reduction to minimum yard requirements based on error in building location and to permit reduction to certain yard requirements, pursuant to Sections 8-914 and 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 recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size (two car garage for a total of 495 square feet) of addition and deck, as shown on the plat prepared by Dominion Surveyors Inc., dated February 5, 2007 as revised through April 25, 2007, as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (3,614 square feet) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
5. Tree protection fencing shall be installed prior to demolition/construction of the addition for the existing row of Leyland Cypress trees located on Lot 23. The fencing shall be installed as far outside the drip line of the trees as possible and shall remain in place until all construction is complete.

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. 8-015 of the Zoning Ordinance, this special permit 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 special permit. 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.