

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JOHN D. VRANKOVICH, SP 2008-DR-019 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction to minimum yard requirements based on errors in building locations to permit dwelling to remain 16.9 ft. with eave 14.9 ft. from side lot line, accessory storage structure to remain 1.4 ft. from side lot line and accessory structure to remain 6.2 ft. from side lot line and 5.4 ft. from rear lot line, and to permit reduction of certain yard requirements to permit construction of addition 10.9 ft. from side lot line and 34.7 ft. from front lot line. Located at 7903 Old Falls Rd. on approx. 21,786 sq. ft. of land zoned R-1. Dranesville District. Tax Map 29-2 ((2)) 5. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 20, 2008; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. With respect to the mistake issues, the applicant has presented testimony showing compliance with the required standards.
3. The applicants bought the house in that way.
4. There was a confusing approval in the file for the house in a similar location to where it is and, where it was built was slightly off of that. It was not clear how that came about, but it was not the fault of the applicants.
5. There will not be any negative impact to leave the house where it is.
6. It would be a hardship to make the applicants move it.
7. With respect to the reduction in minimum yards, the location of the garage addition is in a logical place.
8. The impacts on anyone looking at it would be minimal.
9. It is compatible with what else is surrounding it in the neighborhood from the photographs.
10. With the development condition about the architectural, it will be a nice addition to the home and compatible with what is around it.
11. Based on the photographs, the play set will not have any impact on anybody; there was testimony that it was in the same location as was the previous play set.
12. Although it is possible to move the shed, based on the plat, the testimony, and the photograph of the site, it will not have any negative impact on anybody to leave it where it is; it seems to have been there for several years without any complaint.
13. We have a favorable staff recommendation with respect to the proposed addition.

That the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in Sect. 8-922 of the Zoning Ordinance, and Sect. 8-914, Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;

- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, 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 (1,394 square feet) of an addition, as shown on the plat prepared by Dominion Surveyors, Inc., dated December 21, 2007 as revised through February 19, 2008, 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 (3,147 square feet existing + 4,720.5 square feet (150%) = 7867.5 square feet permitted) 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.

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.

Mr. Smith seconded the motion, which carried by a vote of 7-0.

A Copy Teste:

 Paula A. McFarland, Deputy Clerk
 Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax
 Commonwealth of Virginia

The foregoing instrument was acknowledged before me this _____ day of _____, 2008.

 Notary Public

My commission expires: _____