

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ANTHONY JR. & KATHLEEN ESPOSITO, SP 2008-SU-112 Appl. under Sect. 8-922 of the Zoning Ordinance to permit reduction of certain yard requirements to permit construction of accessory structure 10.0 ft. from side lot line. **THE BOARD APPROVED THE ACCESSORY STRUCTURE 15.0 FEET FROM THE SIDE LOT LINE.** Located at 6610 Smiths Trace on approx. 25,030 sq. ft. of land zoned R-C and WS. Sully District. Tax Map 64-1 ((5)) (6) 6. 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 March 10, 2009; and

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

1. The applicants are the owners of the property.
2. The Board has a staff report with a favorable recommendation.
3. Although the Board did not necessarily agree with everything in the staff report, the applicants are entitled to some relief.
4. A 15' setback would be consistent with the spacing to the house to the north.
5. A 15' setback would allow sufficient space behind the existing garage or behind the deck.
6. The proposed garage conflicts with the location of a locust tree.
7. It is questionable that once the foundation goes under the branches if the locust tree would survive anyway.
8. A 15 foot setback would balance the locust tree off the impact on the neighbor.
9. The proposed garage is a fairly massive structure, higher than a usual garage because of the upstairs area.
10. The side of the garage is an unmitigated flat panel with no fenestration.
11. Based on the photographs, even if the Leyland cypresses cover part of it, the view is going to be relatively unobstructed to the front and the upper portion of the structure.
12. The view is pretty significant of the proposed garage from the neighboring deck, or appears that way from the photographs.
13. The Board could not conclude from the record before them that there have been any approvals for something like this previously.
14. There are many homes in the neighborhood that have added a two-car detached garage, but as far as the Board could tell, those garages did not require relief from the Ordinance; they were generally by right.
15. A 15 foot setback would have a lesser impact on the adjacent property.
16. Considering Subsection 9 of Section 8-922 of the Ordinance, the Board has to make a determination that the proposed reduction represents the minimum reduction necessary to accommodate the proposed structure on the lot.
17. Looking at the layout of the existing structure and availability of alternate locations for the garage, the Board cannot conclude that the application (for a 10 foot setback) is for the minimum necessary.
18. A reduction to 15 feet would be more consistent with the pattern of development in the area.
19. The Board has determined that the application, in part, satisfies the standards in 8-922.

20. Modifying the side yard setback to 15 feet would represent the minimum amount of reduction necessary to accommodate the proposed structure on the lot.
21. Realignment of the driveway is going to happen anyway. At 15 feet, it is still straight back from the existing driveway for the most part.
22. The driveway would not be as far over as the side of the existing yard, based on the drawings.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sect. 8-922 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This special permit is approved for the location and size of a proposed detached garage as shown on the plat prepared by Jeffrey S. Smith, Christopher Consultants, dated October 9, 2008, revised through November 5, 2008 submitted with this application and is not transferable to other land. Notwithstanding the dimensions on the plat, the garage shall be no closer to the side line than 15 feet.
2. The structure shall be consistent with the architectural renderings and materials included in Attachment 1 to these conditions.
3. Building permits and final inspections for the detached accessory structure (garage) shall be diligently pursued and obtained within 180 days of final approval of this application.

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 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.

Ms. Gibb seconded the motion, which carried by a vote of 5-0. Mr. Beard and Mr. Byers were absent from the meeting.