

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MICHAEL D. SUNDSTED / LORI J. SUNDSTED, SP 2009-MV-023 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit open deck to remain 2.1 ft. and addition to remain 8.3 ft. from side lot line. Located at 1805 MacAdams Pl. on approx. 13,257 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 102-2 ((2)) (6) 28. Mr. Byers 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 June 30, 2009; and

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

1. The applicants are the owners of the land.
2. The Board has determined the applicants are in compliance with Items A through G.
3. One item was constructed prior to the ownership by the applicant.
4. The documentation was looked at from the standpoint of the quality of the work that was done.
5. Taken into account was that the next-door neighbor evidences no disapproval.
6. This was brought to the Board's attention not by a notice of violation, but it was voluntarily brought in from the standpoint of actually looking at an addition to the house.
7. The complaints received by the Board were from individuals that are relatively far away from the subject property.
8. The Board has been consistent with regard to granting variances in this area.

That the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and Sect. 8-914, Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location, 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. This special permit is approved for the locations of the open deck and addition as shown on the plat prepared by Alexandria Surveys International, LLC, dated February 6, 2009, as revised through April 28, 2009, as submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this application, building permits and final inspections shall be obtained for the addition and open porch.
3. Within 120 days of approval of this application, the shed shall be removed, moved or reduced in size to meet Zoning Ordinance requirements.

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.

Ms. Gibb seconded the motion, which carried by a vote of 7-0.

A Copy Teste:

Kathleen A. Knoth
Clerk to the Board of Zoning Appeals