

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

NORMA VIDAURRE, SP 2009-LE-034 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 addition to remain 7.6 ft. from side lot line. Located at 6811 Lois Dr. on approx. 11,154 sq. ft. of land zoned R-3. Lee District. Tax Map 90-4 ((6)) 228. 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 August 11, 2009; and

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

1. The applicant is the owner of the property.
2. The applicant has presented testimony showing compliance with the required standards.
3. The Board is satisfied with the applicant's good faith.
4. The violations appear to have been corrected or shortly will be.
5. Approval of the existing carport enclosure will not significantly impact anyone.
6. The roof of the structure was pretty massive to begin with, and the sides of it would tend to hide things that would otherwise be stored in the open.
7. The other standards in the mistake section resolution have been satisfied.

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 location of an existing addition (enclosed carport) as shown on the plat prepared by Laura N. Campbell, dated April 13, 2005, as revised through April 20, 2009, 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 for the addition (enclosed carport) shall be diligently pursued and obtained or the addition shall be removed or brought into compliance with the Zoning Ordinance Requirements.
3. The siding on the north side of the addition shall be repaired, and the exterior appearance of the addition shall be maintained in good repair, consistent with the appearance of the dwelling.

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