

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

LYNN HARVEY TJEERDSMA AND MARY ELLEN TJEERDSMA, SP 2008-MV-085 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 and eave to remain 3.9 ft. from side lot line. Located at 2106 and 2108 Yale Dr. on approx. 26,441 sq. ft. of land zoned R-4. Mt. Vernon District. Tax Map 93-1 ((1)) 71B and 93-1 ((28)) (3) 15. (Decision deferred from 11/18/08, 1/27/09, and 4/14/09) Mr. Smith 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 July 28, 2009; and

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

1. The applicants are the owners of the property.
2. The applicants owned the adjoining lot and were able to bring that in and designate the two lots together as one lot for purposes of this application, thus eliminating the need for the 30 percent reduction.
3. The addition was put on in good faith based on the applicants' testimony that they were from a farming area in South Dakota.
4. There were no concerns from neighbors.
5. There were no concerns about impacts on adjoining property.

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 and size of an existing addition as shown on the plat prepared by Andrew L. Westerman, Alexandria Surveys International, LLC, dated June 27, 2006, revised through April 16, 2008 and signed through April 20, 2009 submitted with this application and is not transferable to other land.
2. Building permits and final inspections for the addition shall be diligently pursued and obtained within 6 months of final approval of this application or the addition shall be removed or brought into compliance with Zoning Ordinance Requirements.
3. Prior to the issuance of a building permit for the addition, the applicant shall apply for and gain approval for an RPA exception and/or waiver for any applicable structures on site if determined necessary by DPWES.

Mr. Gibb seconded the motion, which carried by a vote of 5-2. Mr. Byers and Mr. Hart voted against the motion.