

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CONSTANCE A. BADOWSKI, SP 2009-LE-051 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit roofed deck to remain 23.7 ft. from front lot line and accessory storage structure 1.91 ft. from side lot line and 2.0 ft. from rear lot line and to permit reduction of certain yard requirements to permit construction of detached garage 5.0 ft. from side lot line. Located at 3113 Elmwood Dr. on approx. 7,200 sq. ft. of land zoned R-4. Lee District. Tax Map 82-2 ((14)) (B) 40. 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 September 15, 2009; 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 front porch, the request is very modest, the entrance appears to have been there like that for quite some time, and it also appears consistent with other homes in the neighborhood.
3. The front porch will not have any significant negative impact on anybody.
4. With respect to the proposed garage, with the development conditions, the potential impacts have been mitigated.
5. This is a very small lot on a property where there really is not a whole lot of storage except the existing shed.
6. This will be an improvement in appearance over the shed that is there now.
7. It appears from the photographs that there are other sheds and structures both to the rear and to the side which are taller than the old shed.
8. The proposed location is the logical place on the lot.
9. The reduction to five feet on the one side would not have a significant negative impact on anybody; it is consistent with the pattern on these lots in the immediate vicinity.
10. The height of the shed will be less than twelve feet; a structure of that height at that location will not pose a problem for anybody.
11. The application satisfies the standards in both Sections 8-922 and 8-914 motions.

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. This special permit is approved for the location and size of a detached garage and covered stoop as shown on the plat prepared by George M. O'Quinn, Dominion Surveyors, Inc., dated February 6, 2008, submitted with this application and is not transferable to other land.
- 2. Notwithstanding what is depicted on the plat, the accessory structure shall be no taller than 12 feet in height and consistent with the architectural renderings and materials included in Attachment 1 to these conditions.
- 3. Within 6 months of approval of this application, building permits and final inspections for the roofed deck (covered stoop) shall be obtained or it shall be removed or brought into compliance with Zoning Ordinance requirements.
- 4. Prior to approval of final inspection of the garage, the frame shed including the foundation/flooring shall be removed.

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 7-0.