

## COUNTY OF FAIRFAX, VIRGINIA

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

LISA PETERS, SP 2009-DR-111 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction to the minimum yard requirements based on error in building location to permit accessory storage structure to remain 7.1 ft. from side lot line and 4.6 ft. from rear lot line and to permit reduction of certain yard requirements to permit construction of addition 12.7 ft. from rear lot line. Located at 6631 Kirkley Ave. on approx. 13,953 sq. ft. of land zoned R-3. Dranesville District. Tax Map 40-2 ((9)) 25A. 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 March 3, 2010; and

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

1. The applicant is the owner of the property.
2. The application meets all the criteria under Sect. 8-914, A through G, and all the submission requirements set forth in Sect. 8-922.
3. Staff recommends approval of the addition.

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 the Zoning Ordinance. 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:

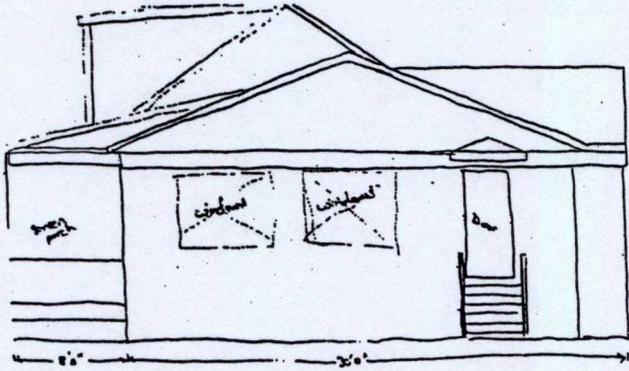
1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recordation shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of the proposed additions and shed as shown on the plat prepared by Andrew L. Westerman, Alexandria Surveys International, LLC, dated April 23, 2009, revised and signed through January 27, 2010, submitted with this application and is not transferable to other land.
3. Pursuant to Provision 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of the existing principle structures may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (1,700 square feet existing + 2,550 (150%) = 4,250 permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction, special permit or variance. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be consistent with the architectural renderings and materials included in Attachment 1 to these conditions.
5. The applicant shall obtain an encroachment exception for construction within the RPA in accordance with the memo provided by the Environmental and Site Review Division, DPWES.
6. Prior to commencement of and during the entire construction process, tree protective fencing shall be installed between the location of the proposed addition and the dripline of the significant trees outlined in the memo from the Forest Conservation Branch, DPWES. The protective fencing shall remain intact during the entire construction process, and shall be the maximum limit for clearing and grading. The applicant shall monitor the site to ensure that an inappropriate activity such as the storage of construction equipment does not occur within these areas.
7. The applicant shall remove or relocate the existing playhouse depicted on the plat in the front yard to be in compliance with Zoning Ordinance location regulations.

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.

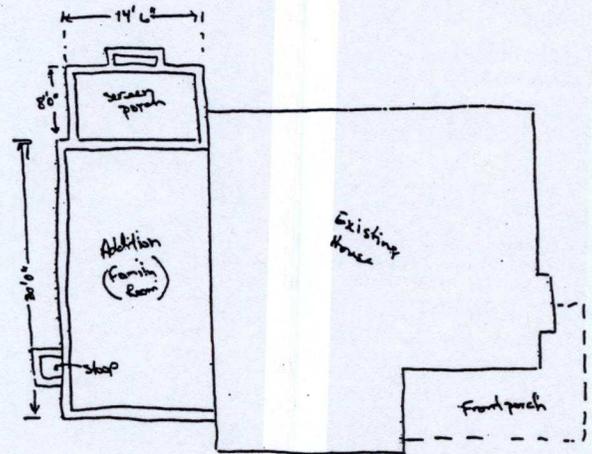
Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced for the addition and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence 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.

Mr. Smith seconded the motion, which carried by a vote of 6-0. Mr. Hammack was absent from the meeting.

Statement of Justification – Peters Residence  
6631 Kirkley Ave, McLean, VA 22101



Side Elevation

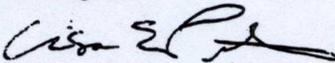


Foundation Plan

- G. The proposed addition will in no way disrupt the surrounding structures or existing vegetation. It is harmonious with the current setting of the neighborhood. It is to be placed on a level area of property and will not interfere with any existing topology, vegetation, floodplains, RPAs (floodplains and RPAs are addressed; permits and authorization will be obtained when the building permit is pursued), steep slopes, wells, septic fields, easements or historic resources.
- H. The proposed addition will in no way adversely impact the use or enjoyment of any adjacent property and its construction is supported by the two closest resident families; Mr & Mrs. Oreste Grecco and Ms. Andrea Miller. The matters of safety, erosion, and storm water runoff are all addressed in the design of the proposed addition and will not impact the surrounding properties in any way.
- I. The proposed addition is within scale of the existing structure and harmonious with the neighborhood setting. It is sized to accommodate use as a functioning living space without imposing on adjacent properties.

As Special Permit applicants and current residents of the existing house, we agree to satisfy any conditions deemed necessary by the Board of Zoning Appeals to meet all of their criteria.

Best Regards,

  
Lisa E. Peters