

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MARY ANN R. DEVINE MATTERN, SP 2009-MV-052 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 7.2 ft. from side lot line such that side yards total 17.9 ft. and accessory storage structure to remain 3.9 ft. from rear lot line. Located at 7920 Grimsley St. on approx. 9,176 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 101-1 ((5)) (25) 6. Mr. Hammack 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. Given the testimony in this case, that the shed meets the side setback line requirements, there is park/undeveloped property to the rear, the applicant's testimony that she will reconstruct the privacy fence inside the wall that has been constructed, and the testimony that the opposition has a number of sheds and things that would preclude him from being impacted by this particular shed, there appears to be no need to require additional screening.
3. The applicant has satisfied the six required standards set forth in the Ordinance, in particular that the noncompliance was done in good faith or through no fault of the property owner or was the result of an error in the location of building subsequent to the issuance of a building permit.
4. This will not be of detrimental to the use and enjoyment of the other property in the immediate vicinity.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

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 attached garage and accessory structure (shed) as shown on the plat prepared by Joseph W. Bronder, DiGiulian Associates, PC dated April 24, 2009 and signed through April 30, 2009.
- 2. Permits and final inspections shall be obtained for the shed and garage addition within 120 days of approval of this special permit or the structures shall be removed or brought into compliance with the Zoning Ordinance.

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.

Mr. Smith seconded the motion, which carried by a vote of 6-0-1. Ms. Gibb abstained from the vote.