

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

RAFAEL GONZALEZ, SP 2010-LE-022 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 accessory storage structure to remain 3.3 ft. from side lot line. Located at 5908 Atteentee Rd. on approx. 16,842 sq. ft. of land zoned R-3. Lee District. Tax Map 80-3 ((2)) (63) 13. (Decision deferred from 6/9/10). Mr. Beard 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 14, 2010; and

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

1. The applicant is the owner of the land.
2. The applicant has complied with Sect. 8-006, in particular the good faith issue.
3. This is in harmony with the proximity.
4. It is noted that there are many letters of support, specifically the neighbors in the proximity.
5. The applicant shall provide vegetative screening around the shed where possible.

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. This special permit is approved for the location of an existing detached accessory storage structure as shown on the plat prepared by Dominion Surveyors, Inc., dated June 22, 2009, submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this application, all applicable permits and final inspections shall be obtained for the detached accessory storage structure or the structure shall be removed or brought into compliance with Zoning Ordinance requirements.
3. The accessory structure shall not be converted into livable space.
4. A minimum of three (3) evergreen shrubs, a minimum of 18 inches in height at time of planting, shall be planted along the southern side of the accessory storage structure and a minimum of five (5) Holly (Ilex) trees, a minimum of 24 inches in height at time of planting, shall be planted along the western side lot line, between the existing fencing and the rear of the accessory storage structure. This plant material shall be kept mulched and watered and maintained in good health.

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.

Chairman Ribble seconded the motion, which carried by a vote of 4-1. Mr. Hammack voted against the motion. Mr. Byers and Mr. Smith were absent from the meeting.