

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

TIMOTHY D. KELLY, SP 2010-MV-029 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to the minimum yard requirements based on errors in building locations to permit accessory storage structure to remain 6.5 ft. from side lot line and 1.7 ft. from the rear lot line and accessory structures to remain 3.9 ft. and 2.6 ft. from side lot line and 0.3 ft. from rear lot line. **(THE BOARD APPROVED THE LOCATION OF THE GARAGE/WORKSHOP AND SHED B ONLY)**. Located at 1604 Old Stage Rd. on approx. 12,247 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 102-4 ((12)) (1) 4. [\(Decision deferred from 6/30/10\)](#). Ms. Gibb 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 playhouse is going to be moved; it is not approved.
3. The applicant has presented testimony indicating partial compliance with the standards set forth in Sect. 8-006.

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:

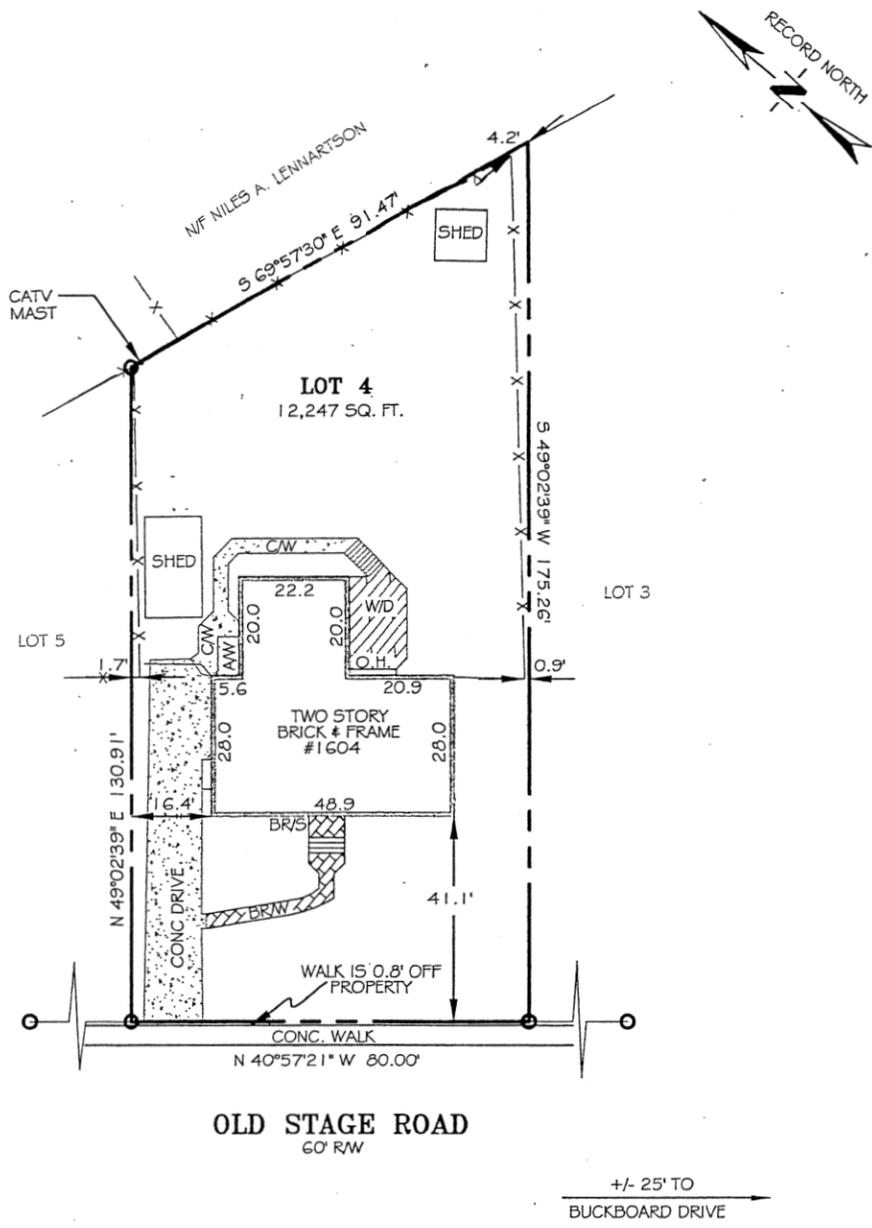
1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition with respect to 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-IN-PART** with the following development conditions:

1. This special permit is approved in-part for the location of the accessory structure (garage/workshop) and accessory storage structure (Shed B) only as shown on the plat prepared by Sam Whitson Land Surveying, Inc., dated November 20, 2009 as revised through May 17, 2010, as submitted with this application and is not transferable to other land.
2. Within six (6) months from the date of approval of this special permit, the garage/workshop shall be reduced in size to a maximum of 252 square feet, shown as "Shed" on Attachment 1 (approximately 21 feet x 12 feet size). All applicable permits and final inspections shall be obtained.
3. The accessory structure (playhouse) shall be reduced in height or relocated in compliance with Zoning Ordinance requirements.
4. Notwithstanding the potential changes to the garage/workshop structure which may be required to meet fire code requirements, the exterior appearance adjacent to the northern side lot line shall not be significantly changed.

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. Beard seconded the motion, which carried by a vote of 5-0. Mr. Byers and Mr. Smith were absent from the meeting.



OLD STAGE ROAD
60' RW

+/- 25' TO
BUCKBOARD DRIVE

HOUSE LOCATION SURVEY

LOT 4 BLOCK 1
RIVERSIDE GARDENS
DEED BOOK 2243 PAGE 581
FAIRFAX COUNTY, VIRGINIA
DATE: JANUARY 10, 2008
SCALE: 1" = 30'
DRAFTED BY: D.B.T./J.T.E.



LEGEND

- | | |
|----------------------------|----------------------|
| C/W = CONC WALK | C/P = CONC PATIO |
| S/W = STONE WALK | R/E = RECESSED ENTRY |
| W/L = WOOD LANDING | CHIM = CHIMNEY |
| B/L = BRICK LANDING | O.H. = OVERHANG |
| W/D = WOOD DECK | B/W = BAY WINDOW |
| C/S = CONC STOOP | OHW = OVERHEAD WIRE |
| M/S = METAL STOOP | AW = AREA WAY |
| C/C/S = COVERED CONC STOOP | ○ = MONUMENT FOUND |
| | -x- = FENCE |

NOTES

1. "NO" PROPERTY CORNER MONUMENTS SET. REFER TO TITLE 54.1-407 OF THE CODE OF VIRGINIA;
2. THIS HOUSE LOCATION SURVEY WAS PERFORMED AT THE WRITTEN REQUEST OF YOUR LEGAL AGENT AND DOES NOT REPRESENT A BOUNDARY SURVEY.
3. THIS SURVEY IS NOT TO BE USED FOR THE CONSTRUCTION OF FENCES OR ANY OTHER IMPROVEMENTS.
4. THIS SURVEY WAS ESTABLISHED BY AN ELECTRONIC TOTAL STATION AND TAPE UNLESS OTHERWISE SHOWN THERE ARE NO ENCROACHMENTS.
5. NO TITLE REPORT WAS FURNISHED. ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.

SAM WHITSON, L.S./LAND SURVEYING
7061 GATEWAY COURT SUITE 150
MANASSAS, VIRGINIA 20109
PHONE: (703)330-9622 FAX: (703)330-9778

OWNER: ENGLE TRUST
BUYER: KELLY
W.O. #07-2501 CLIENT #A7-4858