

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

DANIEL E. LOPEZ, BERTA LOPEZ & PATRICIA MORALES, SP 2010-MA-047 Appl. under Sect(s). 8-918 of the Zoning Ordinance to permit an accessory dwelling unit within an existing dwelling. Located at 5616 Seminary Rd. on approx. 12,587 sq. ft. of land zoned R-3. Mason District. Tax Map 62-3 ((3)) 80. 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 October 6, 2010; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,587 square feet.
4. The Lopezes have owned the property since 1981.
5. The applicants have been very cooperative from the standpoint of coming up with workable solutions with regard to the front yard percentage coverage.
6. The applicants are trying very hard to bring the property into compliance, which is the Board's aim.
7. Staff has recommended approval.
8. The rationale of staff is adopted.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

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 for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicants only, Daniel E. Lopez, Berta Lopez, Patricia N. Morales, and is not transferable without further action of this Board, and is for the location indicated on the application, 5616 Seminary Road, (12,587 square feet), and is not transferable to other land.
3. The occupants of the accessory dwelling unit shall be limited to the applicant's immediate family members.

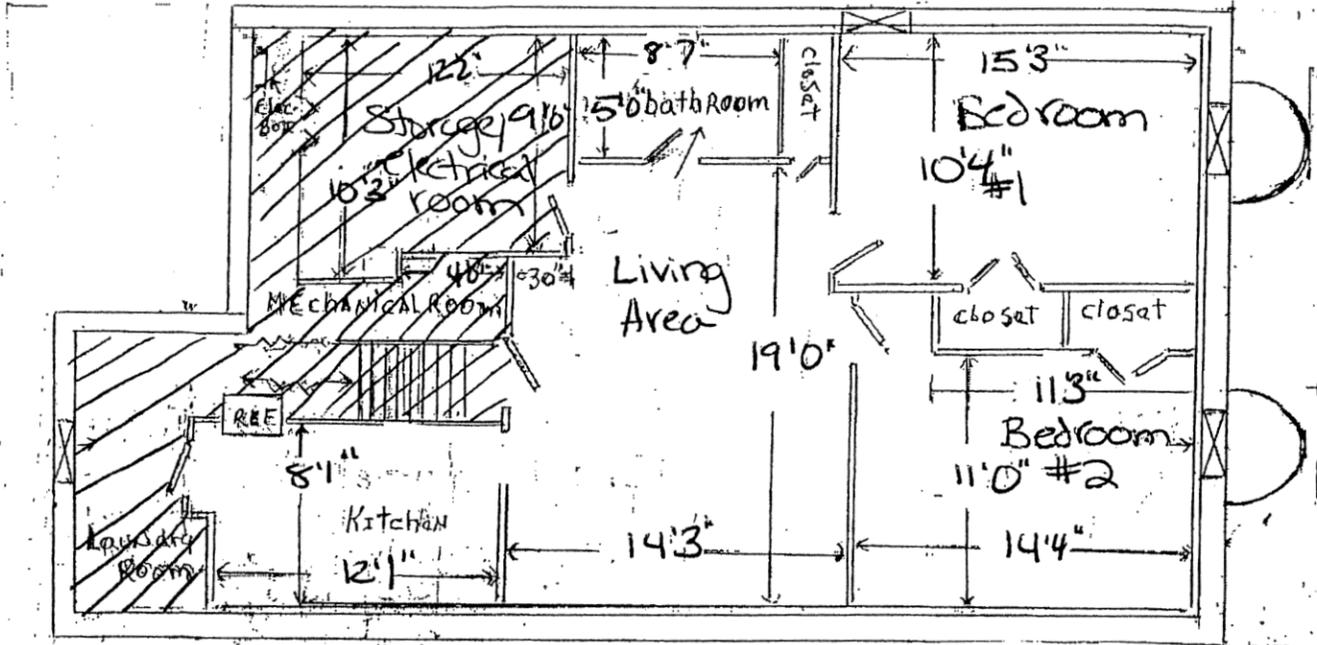
4. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Alexandria Surveys International, LLC, dated June 28, 2010, as revised through September 8, 2010, and approved with this application, as qualified by these development conditions.
5. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
7. The accessory dwelling unit shall contain a maximum of 761.88 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
8. All applicable building permits and final inspections shall be obtained for kitchen in the accessory dwelling unit.
9. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
10. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
11. If the use of the accessory dwelling unit ceases for the applicant's immediate family members and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
12. Parking shall be provided on site as shown on the special permit plat. The applicant shall install a physical barrier alongside the 5.5 foot walkway to ensure parking is contained within the asphalt driveway.

This approval, contingent on 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 the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use 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. Hammack seconded the motion, which carried by a vote of 6-0. Ms. Gibb was absent from the meeting.

FLOOR LAYOUT



Basement Floor Plan
TOP VIEW

*Shaded areas are not part of the accessory dwelling unit