

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

THOMAS L. JOHNSON, TRUSTEE AND VALERIE A. MILAZZO, TRUSTEE, SP 2010-PR-073 Appl. under Sect(s). 8-918 of the Zoning Ordinance to permit an accessory dwelling unit within an existing dwelling. Located at 2610 Oakton Glen Dr. on approx. 14,793 sq. ft. of land zoned R-2 (Cluster). Providence District. Tax Map 37-4 ((16)) 58A. Mr. Hart 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 2, 2011; and

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

1. The applicants are the owners of the property.
2. The Board has a favorable staff recommendation and adopts the rationale in the staff report.
3. This was initially a difficult case when trying to see how the kitchen got built in the face of a denial; however, the homeowners did not do the work themselves, they had a licensed contractor.
4. Under the Board of Regulations, the contractor would be responsible for complying with permits and inspections.
5. For whatever reason, the contractor went out of business.
6. On the merits of the application itself, even if the paper trail is a little bit sketchy, it did not appear there was going to be a problem.
7. This is a small portion of an existing home.
8. It actually is not as much an apartment as some of others are; it does seem to be connected to other rooms in the house.
9. There is a development condition limiting the use of the accessory dwelling unit to the applicants' immediate family members and under the circumstances with a daughter and grandchildren, that makes it more of a family unit as opposed to different tenants coming and going.
10. The parking issue is resolved by Development Condition 12 requiring that all of the parking be onsite.
11. The house started out with seven cars and that would result in street parking.
12. The seven cars are probably what has been driving neighbor complaints, not so much whether the plumbing and wiring has been inspected for the new kitchen.
13. The public safety issue of the kitchen not being inspected is addressed with Development Conditions 8 and 9.
14. In summary, the apartment will not bother anyone; the parking is all going to be onsite; it is an approval for only five years; the staff can go in and check things out.
15. The Board has sufficiently mitigated any potential impact.
16. What is there will be inspected and approved so it is not going to burn down.
17. A failing contractor may cut corners and the County would want to have everything checked out.

18. It seems like everything gets caught up and resolved with the development conditions.
19. That is not to say that people should just go ahead and build things in the face of a denial and expect that they are just going to get permission later to do it.
20. Under these circumstances, the applicants have cleared the hurdles, even if it was a little complicated.
21. The Board received five letters of support for the application.

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, Thomas L. Johnson, Trustee and Valerie A. Milazzo, Trustee, and is not transferable without further action of this Board, and is for the location indicated on the application, 2910 Oakton Glen Drive, (14,793 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 Advance Structural Concepts, Inc., dated May 27, 2008, 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 984 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. All parking shall be provided on site as shown on the special permit plat.

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

2610 Oakton Glen Drive, Vienna, VA 22181

ADDITION FLOOR PLAN

