

## COUNTY OF FAIRFAX, VIRGINIA

### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

DONNA A. GRANAHAN, TRUSTEE, VC 2011-MV-005 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit construction of a dwelling 7.5 ft. from both side lot lines. Located at 8520 Highland Ln. on approx. 5,600 sq. ft. of land zoned R-2 and HC. Mt. Vernon District. Tax Map 101-3 ((7)) 43. 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 July 13, 2011, and

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

1. The applicant is the owner of the land.
2. The present zoning is R-2, HC.
3. The area of the lot is 5,600 square feet.
4. From the standpoint of the required standards for a variance, this application satisfies that there is exceptional narrowness, exceptional size, and exceptional topographical conditions, at the time of the effective date of the Ordinance.
5. The condition, or situation of the property, or the intended use of the property is not of so general or recurring in nature to make reasonably practical the formulation of a general regulation.
6. The strict application of this Ordinance would produce undue hardship, and the undue hardship is not generally shared by other properties in the same district or the same vicinity.
7. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the use of the subject property.
8. The granting of this variance will alleviate a hardship as distinguished from a special privilege or a convenience.
9. It will not be of substantial detriment to adjacent properties.
10. The zoning district will not be changed by the granting of the variance.
11. The variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.
12. This variance is not inconsistent with three other variances that have been approved by this Board.
13. The points that have been brought up with the Board members are valid. The house, by-right, could be 10 feet wide, but it still could be two stories tall, and the applicant could certainly do it by right.
14. The issues that were raised are not necessarily alleviated by not granting the variance.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;

- C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
- A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

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

1. This variance is approved for the maximum size and location within the building envelope of a single-family detached dwelling, "Proposed House", as shown on the plat prepared by Scartz Surveys, dated December 6, 2007, revised and signed by Larry N. Scartz, April 14, 2011, as submitted with this application and is not transferable to other land.
2. All applicable building permits and final inspections shall be obtained for the single-family detached dwelling.
3. If engineering limits allow, the home will be built at a grade consistent with all other homes in the Engleside subdivision.
4. The construction materials and architectural renderings will be compatible with the adjoining properties.

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 including requirements for building permits.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. 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 4-1-1. Vice Chairman Hammack voted against the motion. Mr. Hart abstained. Chairman Ribble was absent from the meeting.