

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

RUBEN JORDAN ROSALES, SP 2011-PR-029 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 addition to remain 2.2 ft. from side lot line. Located at 7208 Quincy Ave. on approx. 7,384 sq. ft. of land zoned R-4. Providence District. Tax Map 50-3 ((9)) 168. 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 June 29, 2011; and

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

1. The applicant is the owner of the property.
2. This is a difficult case because of the closeness of the addition.
3. The Board does not have a whole lot of information about the nature of the complaint, but the public hearing was today, and if there was going to be opposition to this, the Board would have heard something before now, whether through letters or testimony.
4. It is a very close call.
5. Based on the record before the Board, the applicant did not have knowledge of the applicable requirements.
6. The addition is roughly in the same location as an addition that was there already.
7. It is somewhat unclear from the record whether the previous addition also was approved or exactly what happened with that, but it seems to have been there for a long time.
8. Although the eave of the addition is 2.2 and the wall is 3-point-something, it is really only one corner of the addition that comes as close to the lot line as that (sic).
9. Based on the photographs, it cannot be said this will have a significantly greater negative impact on neighbor than what was existing.
10. If there was going to be more to this about the impacts on the neighbors, today would have the time for that to surface.
11. It is not a great case because of the proximity, but this is a relatively small lot, 7,000-something square feet.
12. For whatever reason, the orientation of the house on the lot was skewed to begin with in 1946.
13. There is no apparently explanation for that either, but once the walls are turned so that they are not square to the lot line, any time there is an addition, a corner of it is going to be sticking out one way or another.
14. The applicant has taken the right steps at this point to get this resolved.
15. Under the development conditions, there will have to be inspections of the work that is there, and the applicant will have to appropriately and timely pursue that within six months.
16. The Board has dealt with any public health and safety issue as well.

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 and size of the single-story addition, as shown on the plat prepared by Alexandria Surveys International, LLC, dated November 17, 2010, signed December 7, 2010, as submitted with this application and is not transferable to other land.
- 2. Appropriate building permits and final inspections for the addition shall be diligently pursued and obtained within six months of final approval of this application.

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.

Ms. Gibb seconded the motion, which carried by a vote of 6-1. Mr. Byers voted against the motion.