

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

THOMAS BASSAM, SP 2011-SP-062 Appl. under Sect(s). 8-918 of the Zoning Ordinance to permit an accessory dwelling unit within an existing dwelling. Located at 6803 Dante Ct., Springfield, 22152, on approx. 10,660 sq. ft. of land zoned R-2 (Cluster). Springfield District. Tax Map 89-1 ((7)) 60. (Admin. moved from 9/21/11 at appl. req.). Mr. Smith 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 26, 2011; and

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

1. The owner of the property is the applicant.
2. The present zoning is R-2 Cluster.
3. The area of the lot is 10,660 square feet.
4. The Board is very sympathetic to the concerns of the neighbors.
5. Mr. Smith lives in a cul-de-sac, next to someone who leases the downstairs space to an occupant/renter. It does not have a separate dwelling unit. It is a by-right use.
6. The issues that can arise from granting the special permit are not really any different than the issues that would arise from not granting it.
7. You can have the same issues with a family next door or with unrelated people next door.
8. It is all about people.
9. It depends on the people that you happen to have.
10. If the Board were to deny this, it does not necessarily change anything.
11. The same two people can live in the house where they are now. It just means that the kitchen would be disconnected and they all be using the same kitchen effectively.
12. The Board is very sympathetic to the issue of starting the ball rolling in a precedent for what would be perceived as being a boardinghouse.
13. That is why it is very important to talk about how the Board could develop conditions to make it clear, because if the Board were to grant this without any development conditions, right now, you could have the two unrelated folks downstairs and you could have the applicant and his son and three potentially additional unrelated folks in the principal dwelling unit.
14. As a condition of this special permit, the Board would want to restrict that.
15. The applicant was receptive to that and agreed to that in the comments that were made.

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 in the accessory unit. 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 applicant only, Thomas Bassam, and is not transferable without further action of this Board, and is for the location indicated on the application, 6803 Dante Court (10,660 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Dewberry, Nealon, Davis, March 24, 1967, revised September 9, 1967, and approved with this application, as qualified by these development conditions.
4. 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.
5. 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.
6. The accessory dwelling unit shall contain a maximum of 700 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit prior to occupancy.
8. 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.
9. 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.
10. If the use of the accessory dwelling unit ceases 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.
11. All parking shall be provided on site as shown on the special permit plat.
12. The occupancy of the principal dwelling unit shall be limited to the applicant and others related by blood or marriage. The accessory dwelling unit may not be occupied by more than two persons not necessarily related by blood or marriage.

13. The applicant shall bring the basketball net into compliance with the Zoning Ordinance.

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.

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

