

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MARIA L. MICHAELS, SP 2011-SU-030 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on errors in building locations to permit an accessory structure to remain 9.7 ft. and accessory storage structure to remain 0.4 ft. from side lot line. Located at 11224 Sorrel Ridge La. on approx. 2.34 ac. of land zoned R-1. Sully District. Tax Map 36-4 ((3)) 18. (Admin. moved from 6/29/11 at appl. req.) (Decision deferred from 7/13/11) Ms. Gibb 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 November 16, 2011; and

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

1. The applicant is the owner of the property.
2. This case is a tough one.
3. The gazebo and the storage structure are too close to the property line, especially the storage structure.
4. The Board very, very rarely approves something so close to a property line, but in this case, it is a very substantial building.
5. It is well built and blends in with the rest of the property.
6. It was built in 1995 and replaced an existing structure that was coming down, according to the applicant's testimony.
7. It was there before the property owners on Lot 19 moved in.
8. It was there without objection for many years because apparently it was screened by some trees, which have since been taken down.
9. Nevertheless, they did exist for a number of years without objection.
10. In this case, it would be very, very expensive to try to move the buildings, they are tied into a sort of an architectural and aesthetic scheme of the home, and they have been there a long time.
11. The Board has been struggling with how to screen the two structures, which are so close to the property line, especially the storage structure.
12. The applicant and the neighbors on Lot 19 have come to sort of a reluctant agreement about a privacy fence.

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 only for the location of an accessory structure (gazebo) and an accessory storage structure (brick building), as shown on the plat prepared by Schools & Townsend, P.C., dated February 17, 2010 as sealed through March 31, 2011, submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections shall be obtained for the accessory structure (approximate 256 square foot gazebo) within 120 days of approval of this special permit or the structure shall be reduced in height, relocated or removed to comply with applicable Zoning Ordinance provisions.
3. The applicant shall construct a 7-foot solid privacy fence on Lot 18 along its perimeter with Lot 19 between the front of the brick dwelling unit to the rear of the shed with the outside of the fence facing Lot 19, with color, materials, and construction subject to the approval of the Architectural Review Board, after the property line has been surveyed and staked by a certified surveyor. The 7-foot solid privacy fence shall be constructed within 180 days from the date of approval of this special permit.
4. Approval of the location of the shed shall be expressly subject to any rights which utility companies or other parties with a proper interest may have in the right to use the utility easement.

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.

Mr. Hart seconded the motion, which carried by a vote of 5-0. Chairman Ribble recused himself from the hearing. Mr. Beard was absent from the meeting.