

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

PAULINE B. RAMPRASAD, SP 2011-SP-067 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit existing deck to remain 17.3 ft. from front lot line and to permit reduction of certain yard requirements to permit construction of addition 16.4 ft. from front lot line **(THE BOARD DID NOT APPROVE THE ADDITION.)** Located at 6462 Honey Tree Ct., Burke, 22015, on approx. 14,716 sq. ft. of land zoned R-3. Springfield District. Tax Map 88-1 ((10)) 11. (Decision deferred from 10/5/11) 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 November 16, 2011; and

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

1. The owner of the property is the applicant.
2. The property is zoned in the R-3 zoning category.
3. Regarding the proposed addition:
 - A. The applicant has not presented testimony indicating compliance with the general standards for special permit uses as set forth in Section 8-006 and the additional standards for the provisions for reduction of certain yard requirements as contained in Section 8-922 of the Zoning Ordinance.
 - B. This addition, under these circumstances, is too much.
 - C. It is the wrong placement of the addition.
 - D. Just looking at it, it does not feel right.
 - E. When looking Old Keene Mill Road, and considering the modifications proposed to Old Keene Mill Road, and looking also at the trail easement, the Board thought it was too much to be adding to a front yard in this location.
 - F. The Board agreed with the analysis in the staff report.
 - G. The Board had some concerns, even looking at the general conditions, about compliance and being in harmony with the adopted Comprehensive Plan, as well as the Section 8-922 provisions about whether the proposed reduction represents the minimum amount of the reduction necessary to accommodate the proposed structure on the lot.
 - H. In this case, you have a 14,700 square feet lot and have several additions that have been constructed already, including a two-story sunroom addition, two-level deck, not to mention gazebos and sheds and patios.
 - I. It seems that this is overloading this lot in a location in a front yard on Old Keene Mill Road.
 - J. The Board had a concern with Section 8-006, General Standard 3, about the proposed use being harmonious with and not adversely affecting the use and development of neighboring properties in accordance with the applicable zoning district regulations and adopted Comprehensive Plan, being so close to a major thoroughfare.
 - K. The Board had a concern with Section 8-922, Standard 6, about the bulk along the lot line with Old Keene Mill Road, 24-feet in length and now 12-feet in width, still is too much bulk there and does not meet the requirements of Standard 6.

- L. The Board had a concern with Standard 7 with vegetation in a limited area in which to plant vegetation as mitigation of the significant impact of the structure and not harmonious with the surrounding off-site uses in the neighborhood.
 - M. The Board had a concern with Standard 8, right-of-way for a major thoroughfare shown on the Comprehensive Plan to be widened to a four-lane divided road with a 12 to 16-foot trail easement.
 - N. The Board was concerned about the impact of living space for a single-family dwelling unit directly adjacent to a high noise generating use.
 - O. The Board did not think it met Standard 8.
 - P. The Board had a concern about Standard 9. It has a large rear yard, and it looked like there were other places this could go.
4. Regarding the existing deck:
- A. This has a setback now of 17.3 feet from the same lot line in a front yard.
 - B. In this case, the impact is significantly less.
 - C. This is a wooden deck that was built from all indications in good faith, through no fault of the property owner.
 - D. To force compliance with the standard in this case would cause an unreasonable hardship in tearing out the deck that is otherwise usable.
 - E. It is easier to mitigate and address in the future.
 - F. It does raise some of the same concerns, but, again, given the good faith component and the hardship component, it swayed the Board to approve this portion of the application.

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-IN-PART**, with the following development conditions:

1. This special permit is approved for the location of the wood deck, as shown on the plat prepared by Scartz Surveys, dated April 1, 2011, as signed and sealed through November 15, 2011, submitted with this application and is not transferable to other land.
2. As shown on the special permit plat, the "Frame Shed" shall be removed, relocated or reduced in height to comply with current Zoning Ordinance requirements.
3. The applicant shall assume all responsibility for repair and/or replacement of any portions of the fence which must be removed to accommodate repairs and/or maintenance within the trail easement as shown on the special permit plat.
4. The applicant shall remove the brick/block planters as shown on the SP plat inside of the trail easement within 90 days of 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 6-0. Mr. Beard was absent for the meeting.