

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CARLOTA LANCHIPA AND JOHAN CARDENES LANCHIPA, SP 2011-PR-085 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction of minimum yard requirements based on errors in building locations to permit additions to remain 6.0 ft. and 7.0 ft. from side lot line. Located at 2922 Johnson Rd., Falls Church, 22042, on approx. 7,200 sq. ft. of land zoned R-4. Providence District. Tax Map 50-3 ((9)) 192. 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 December 7, 2011; and

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

1. The applicants are the owners of the land.
2. The Board has determined that the application meets all of the criteria, A through G.
3. This is not an expansion beyond the original footprint of the front porch, although it was enclosed.
4. The rationale for the enclosure from the standpoint of leakage is understood.
5. The original additions had actually been in existence, even prior to this expansion, since 1996.
6. The applicants have done a good job from the standpoint of removing those violations or those areas where they have been in violation before.

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 front porch addition as shown on the plat prepared by Sam Whitson Land Surveying, Inc., dated November 11, 2010 and revised and sealed though September 14, 2011, as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections for the front porch addition shall be diligently pursued and obtained within six months of final approval of this application.
3. The accessory structures (play equipment) shall be removed or relocated to comply with applicable Zoning Ordinance provisions within 90 days of this special permit approval.

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. Chairman Ribble was absent from the meeting.

A Copy Teste:

Kathleen A. Knoth
Clerk to the Board of Zoning Appeals