

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

THOMAS B. BRADLEY AND JUDITH R. STARR, SP 2011-MV-089 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction of minimum yard requirements based on error in building location to permit addition to remain 6.5 ft. from side lot line. Located at 2410 Stirrup Ln., Alexandria, 22308, on approx. 12,794 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 102-3 ((11)) (6) 9. 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 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 applicants have demonstrated compliance with the required standards.
3. The enclosure of the side of the carport really changes it very little from what it would be if the side of it had remained open.
4. The back side of the carport is still more or less open.
5. The roof appears to be the same.
6. The side of it is very low and is largely concealed by bushes.
7. It would not make much difference whether the side of the carport is enclosed for a storage area or not.
8. It does not appear that there were any complaints about this.
9. It has been there at least 20 years and perhaps somewhat longer.
10. The issue came up in the context of an engineering certification related to a by-right addition.
11. It does not appear that anything with this storage area on the side of the carport is something that any of the neighbors were complaining about or that an inspector had picked on before now.
12. There will not be any significant negative impact on anyone.
13. The Board has determined that the standards in the mistake section resolution have been satisfied.

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 partially enclosed carport addition with storage structure as shown on the plat prepared by Dominion Surveyors Inc., dated and sealed March 18, 2011 and revised through July 1, 2011, as submitted with this application and is not transferable to other land.
2. All applicable 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 and Mr. Smith seconded the motion, which carried by a vote of 6-0. Chairman Ribble was absent from the meeting.

A Copy Teste:

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Kathleen A. Knoth  
Clerk to the Board of Zoning Appeals