

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SOUNIN PHONEMANY, SP 2011-LE-098 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit roofed deck to remain 21.0 ft. from the front lot line. Located at 6007 Craig St., Springfield, 22150, on approx. 8,825 sq. ft. of land zoned R-4. Lee District. Tax Map 80-3 ((2)) (10) 27 (Concurrent with VC 2011-LE-014). 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 January 25, 2012; and

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

1. The applicant is the owner of the property.
2. Based on his testimony and based on the exhibits in the staff report, there was confusion at the County and by the applicant on the portico as to where it was built.
3. The applicant did make a mistake.
4. The applicant acted in good faith.
5. The applicant obtained a building permit.
6. The Board determined that the applicant met Standards A through G, specifically that the noncompliance was done in good faith and was the result of an error in the location of a building subsequent to the issuance of a building permit.
7. The error did exceed ten percent.
8. The reduction does not impair the intent of the Ordinance, has an impact on the neighbors, and will not create an unsafe condition with respect to the property.
9. To force compliance with the minimum yard requirements would certainly be a financial hardship for the applicant.

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.

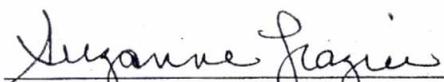
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This special permit is approved for the location of a roofed deck (portico) as shown on the plat prepared by APEX Surveys, dated August 25, 2011, as revised through December 15, 2011, as submitted with this application and is not transferable to other land.

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. Smith seconded the motion, which carried by a vote of 6-0. Mr. Hammack was absent from the meeting.

A Copy Teste:



Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals