

## COUNTY OF FAIRFAX, VIRGINIA

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

SRIDEVI V. SARMA, SP 2011-DR-054 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 open deck to remain 4.8 ft. from one side lot line, 0.8 ft. from eastern side lot line and 1.6 ft. from rear lot line. **(THE BZA DID NOT APPROVE THE REQUESTED 4.8 FEET FROM THE WESTERN SIDE LOT LINE FOR THE OPEN DECK.)** Located at 6510 Chesterfield Ave. on approx. 10,150 sq. ft. of land zoned R-3. Dranesville District. Tax Map 41-1 ((5)) 18 (Concurrent with VC 2011-DR-008). (Decision deferred from 8/3/11, 10/5/11, and 11/30/11) 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 January 25, 2012;

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

1. The applicant is the owner of the property.
2. As passed without the approval of the 4.8 feet from the western side lot line:
  - A. It could not be detrimental to the use and enjoyment of other property in the immediate vicinity.
  - B. It could not create an unsafe condition with respect to both other property and public streets.
  - C. The rest of the standards apply.
3. The Board wanted to be as fair as they could.
4. The building permit dated June 1, 2010, clearly annotates that the stone patio is to be removed, which is on the current plat.
5. The building permit says that the areaway and the stairs are supposed to be removed as well.
6. They were added into the development conditions because if you do not have those there, then the only way you can egress the house is through the deck.
7. It was more reasonable to have the stairs and the areaway.
8. That does not take away any of the stone patio around the spa or the pool.
9. It does reduce the impervious surface from 64 percent to 41.59 percent, which should mitigate some of the water runoff issues from the property, along with the trench which is already at the back end of the property.
10. If the stairs and the areaway are removed, that would take the impervious surface down to around 35 percent.
11. Based on the variance, it makes a variance much more palatable, for example, in the six percent, which the Board can live with.
12. The applicant retains the in-ground swimming pool, the associated decking, and the spa.

13. From the standpoint of cost, which the Board does not usually consider, that portion that the Board is asking to be removed would have been a cost that the applicant would have undergone anyway if the building permit had been followed exactly the way it was submitted. So the Board is not asking for any additional cost on this.
14. If the application is approved this way, then there would be no concern about the site plan and additional run-off issues in the front.
15. The variance request would be reduced to about 12 percent.
16. As indicated on page 2 of the Status Update memorandum dated January 25, 2012, even if you go through all of the additional expense and try to divert everything to the front, there is no guarantee that it will work.
17. The problem is that once those efforts are made and it does not work out, then the Board will have already approved this complete package with 64 percent impervious surface and there would be a bigger issue than there is now.

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.

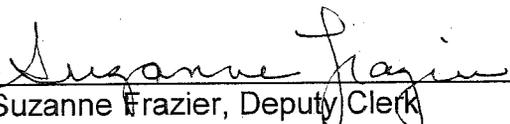
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED-IN-PART**, with the following development conditions:

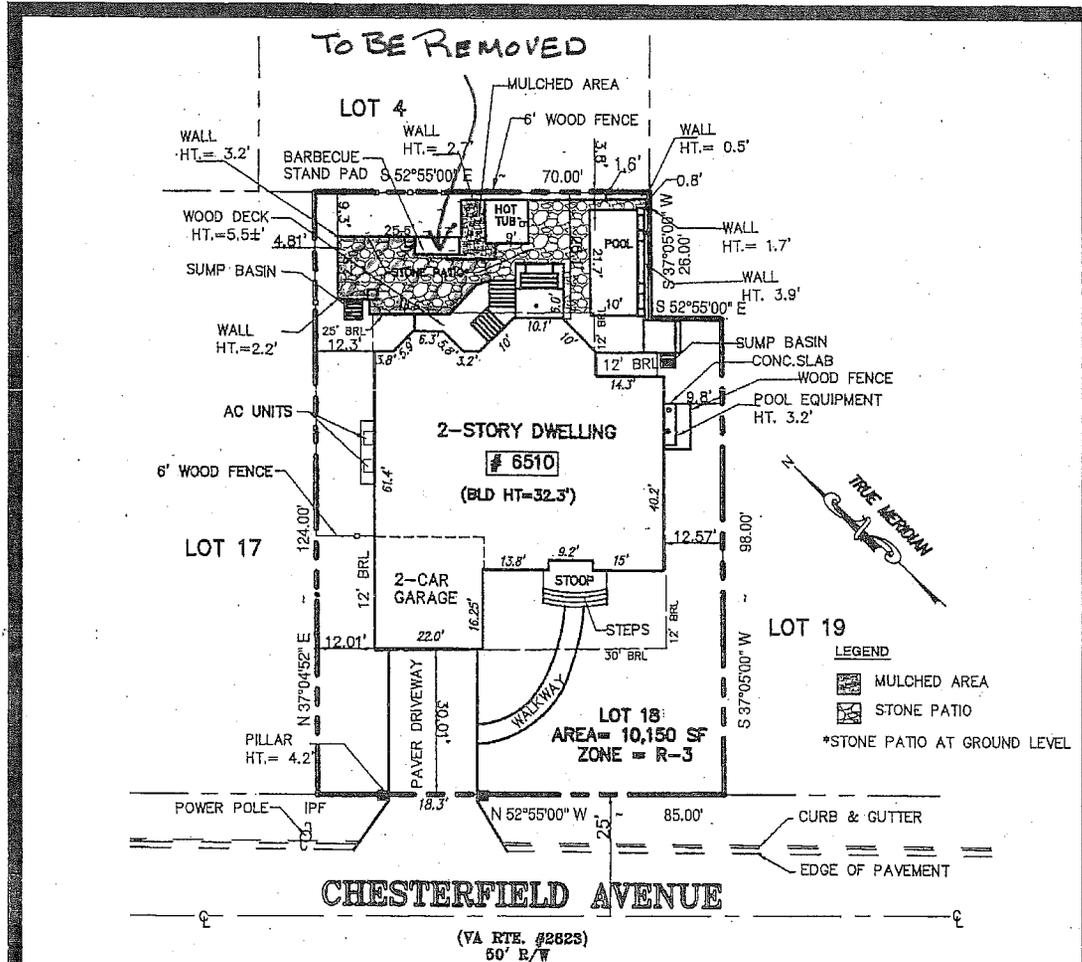
1. This special permit is approved for the location of an open deck (stone patio, and accessory structures (swimming pool, hot tub, barbecue pad, decorative walls and areaways and steps) located 0.8 feet from the eastern side lot line and 1.6 feet from the rear lot line as shown on the plat prepared by GeoEnv Engineers, dated January 17, 2012, as submitted with this application and is not transferable to other land. A portion of the "stone patio" located 4.8 feet from the western side lot line shall be removed as shown on Attachment 1 to these conditions.

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 including requirements for building permits.

Ms. Gibb 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



**REAR YARD COVERAGE**

STONE PATIO=685 SQ FT  
 WALL = 38 SQ FT  
 POOL AREA=216 SQ FT  
 BARBACUE PAD = 32 SF  
 HOT TUB = 81 SF  
 AREAWAY/STEPS = 114 SF  
 TOTAL=1,166 SQ FT  
 REARYARD AREA=1,827 SQ FT  
 REAR YARD COVERAGE WITH AREAWAY AND STEPS=1,166/1,827X100%=63.82%  
 REAR YARD COVERAGE WITHOUT AREAWAY AND STEPS=1,052/1,827X100%=57.58%



**NOTES:**

1. THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
2. THE COUNTY RECORDED TAX MAP # 41-1-((05))-18.
3. THE BOUNDARY INFORMATION SHOWN HEREON IS FROM RECORD AND DOES NOT CONSTITUTE A BOUNDARY BY THIS INDIVIDUAL.
4. THE HOUSE LOCATION SURVEY IS THE RESULT OF FIELD-RUN SURVEY BY USING TOTAL STATION (EDM).
5. FENCE LOCATIONS ARE APPROXIMATE ONLY AND DO NOT CERTIFY AS TO OWNERSHIP. THIS PLAN IS NOT INTENDED FOR THE CONSTRUCTION OF FENCES AND STRUCTURES.
6. THE PROPERTY IS SERVED BY PUBLIC WATER AND SANITARY SEWER SYSTEM.
7. NO KNOWN GRAVE SITE OR BURIAL SITE EXIST ON THE LOT.

**PLAT**

**LOT 18, SECTION 1**  
**CHESTERFIELD GARDENS**  
 DRAINSVILLE DISTRICT  
 6510 CHESTERFIELD AVENUE  
 FAIRFAX COUNTY, VIRGINIA  
 SCALE: 1"=30'  
 DATE: JANUARY 17, 2012

**PREPARED BY**

**GeoEnv Engineers**  
 Civil, Environmental & Geotechnical Engineering  
 10875 Main Street, Suite 213  
 Fairfax, VA 22030  
 Phone: 703.591.7170  
 Fax: 703.591.7074

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## COUNTY OF FAIRFAX, VIRGINIA

### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

SRIDEVI V. SARMA, VC 2011-DR-008 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit greater than 30 percent minimum rear yard coverage. Located at 6510 Chesterfield Ave. on approx. 10,150 sq. ft. of land zoned R-3. Dranesville District. Tax Map 41-1 ((5)) 18 (Concurrent with SP 2011-DR-054). (Decision deferred from 8/3/11, 10/5/11, and 11/30/11) 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 January 25, 2012; and

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

1. The applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 10,150 square feet.
4. It satisfies at least one of the characteristics under Standard 2, specifically the size of the lot itself.
5. Even if the applicant had followed through initially with the approved permit on June 1<sup>st</sup>, there would still be discussions about 35% rear yard coverage.
6. There still would have been a variance that would have been required.
7. Rather than disapproving the variance and now allow the applicant to have the barbecue, the spa, the stone patio, and the swimming pool, that was an approved building permit, and the Board should go ahead and honor it.
8. It would be a 12% variance as opposed to one that would be 34%.
9. Based on what the Board has seen before from the standpoint of infill situations, when you reduce impervious surface, it does help.
10. That is sensitive to the neighbors and sensitive to trying to maintain as much as possible of what has already been put in place.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;

- F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
  4. That the strict application of this Ordinance would produce undue hardship.
  5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
  6. That:
    - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
    - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
  7. That authorization of the variance will not be of substantial detriment to adjacent property.
  8. That the character of the zoning district will not be changed by the granting of the variance.
  9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

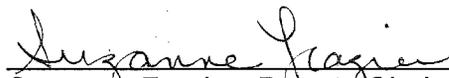
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

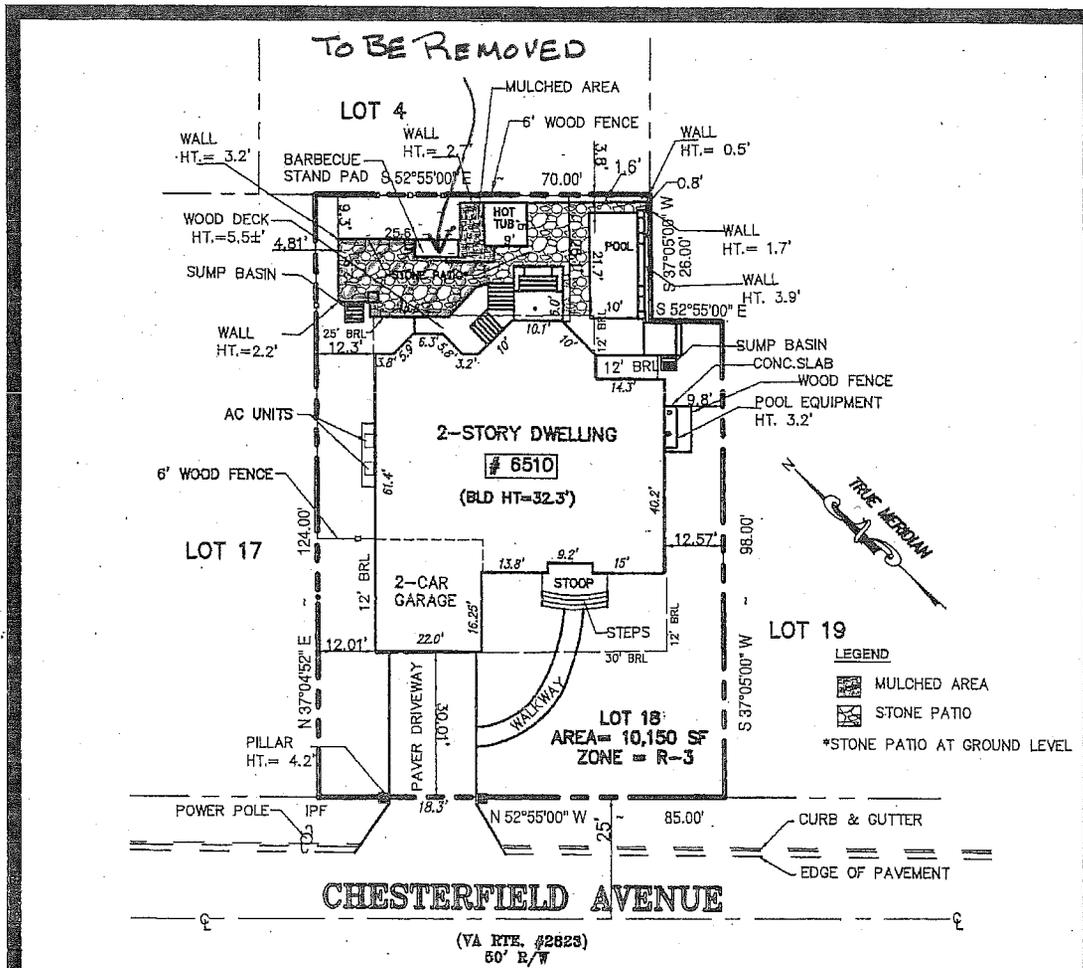
1. This variance is approved for minimum rear yard coverage of approximately 42% as shown on the plat prepared by GeoEnv Engineers, dated January 17, 2012, submitted with this application, amended as shown on Attachment 1 to these development conditions. This approval is not transferable to other land. A portion of the "stone patio" located 4.8 feet from the western side lot line shall be removed as shown on the attachment within 90 days of the approval of this variance.
2. A revised Infill Lot Grading Plan, which reflects revisions to and/or the reconstruction of the existing infiltration trench located in the rear yard to meet today's standards shall be submitted to the Department of Public Works and Environmental Services within 90 days and all work shall be completed within 9 months of the date of approval of this variance.

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 including requirements for building permits.

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

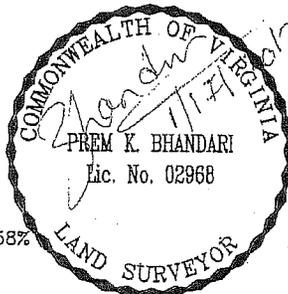
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 Department of Planning & Zoning  
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