COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ROBERT DUNN, SP 2011-MV-104 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 8.0 ft. from side lot line and accessory storage structure to remain 4.0 ft. from side lot line and 2.4 ft. from rear lot line. Located at 8514 Culver Place, Alexandria, 22308, on approx. 10,641 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 102-4 ((5)) (11) 14. Mr. Hammack 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 February 15; and

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

1. The applicant is the owner of the property.
2. According to the staff report, the applicant bought the property with these revisions already in place, somehow done by a prior owner, which brings him under the statute.
3. Only a small triangular section of the garage requires a setback.
4. Only the very peak of the shed requires that it be offset.
5. If the shed roof was a little flatter, the shed would not be in violation.
6. The applicant has satisfied the seven required standards set forth under Section 8-914, specifically that the noncompliance was done in good faith and through no fault of the property owner.
7. The reductions will not impair the purpose and intent of the Ordinance or be detrimental to the use and enjoyment of other property in the immediate vicinity.

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 garage addition and accessory storage structure as shown on the plat prepared by Larry N. Scartz, dated August 29, 2003 and revised and sealed though January 20, 2012 by Rebecca L.G. Bostick, as submitted with this application and is not transferable to other land.

2. All applicable permits and final inspections for the garage 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.

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

A Copy Teste

Suzanne Frazier

Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals