

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CHRISTOPHER W. DEVINE, TRUSTEE, SP 2010-DR-075 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit deck to remain 3.4 ft. from a side lot line and to permit reduction of certain yard requirements to permit construction of addition 14.5 ft. from rear lot line. Located at 12101 Eddyspark Dr. on approx. 10,151 sq. ft. of land zoned R-3 (Cluster). Dranesville District. Tax Map 11-1 ((4)) 256. 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 March 2, 2011; and

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

1. The applicant is the owner of the property.
2. The applicant has met the required standards A through G under Sect(s). 8-914.
3. The error was done in good faith.
4. The applicant testified that the deck was built by a previous owner.
5. There was a building permit, but the deck was built in error by the previous owner's builder.
6. The staff report and photographs indicate that there will not be an impact on any neighbors since the property backs onto park land and floodplain.
7. The deck will not impede anyone's view.
8. The applicant has met standards 1 through 6 of Sect(s). 8-922.
9. A screened in porch is being built on a very small portion of the deck.
10. The porch should not have an impact on anyone because it backs up to the park land.
11. The use is harmonious with surrounding structures in the neighborhood.

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. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location 12101 Eddyspark Drive and size, 216 square feet for the proposed addition and deck, as shown on the plat prepared by Curtis L. McAllister, Land Surveyor, Highlander Surveying Services, P.C., dated November 5, 2010, as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,986 square feet existing + 4,479 square feet (150%) = 7,465 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The additions shall be generally consistent with the architectural drawings as depicted on Attachment 1 to these conditions.
5. Prior to commencement of and during the entire construction process, tree protective fencing shall be installed between the location of the proposed additions and the limits of clearing and grading within all property boundaries. Tree protection fencing in the form of silt fencing shall be installed at the limits of clearing and grading to protect the critical root zones of on-site and off-site trees from any construction activity, including material storage and vehicular and construction equipment traffic. The applicant shall monitor the site to ensure that inappropriate activity such as the storage of construction equipment does not occur within the tree save areas. Any trees that are damaged or removed shall be replaced with a like kind in size and species as determined by the Urban Forest Management Division (UFMD), DPWES.

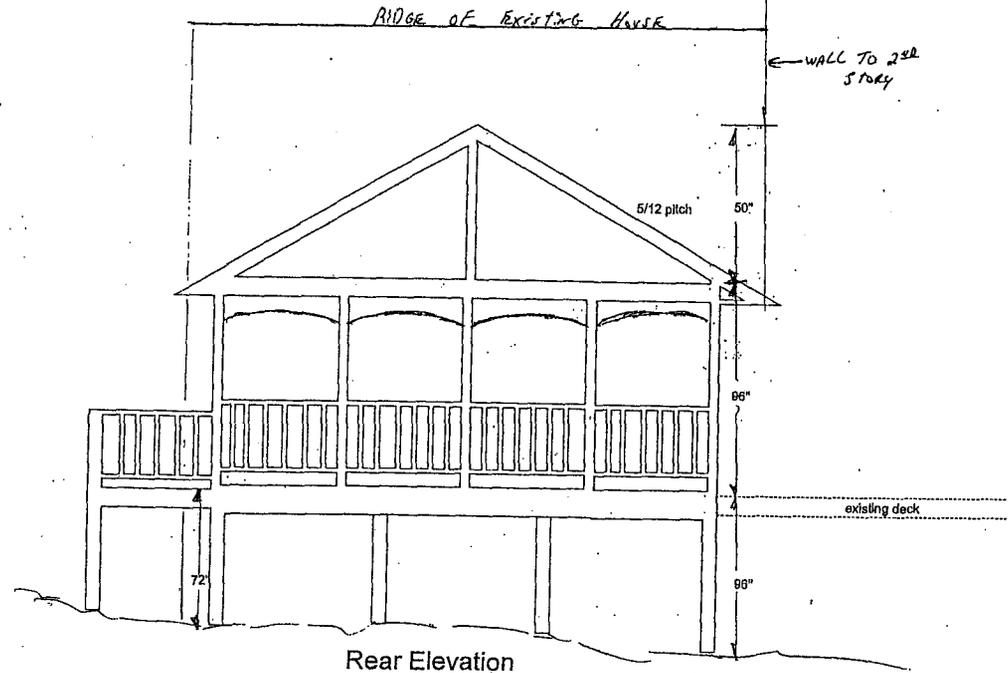
This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

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



side elevation



Rear Elevation

12107 EDDY'S PARK DR. HERNDON VA. 20170		
SCALE: $\frac{1}{4}'' = 1'$	APPROVED BY:	DRAWN BY
DATE:		REVISED
LASIK BUILDERS Thomas S. Lasik 12814 Briary River Terrace Herndon, VA. 20170-2804 703 437-0890 DESIGNER: Thomas S. Lasik		DRAWING NUMBER