

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ABDERRAHMAN RHANIME, SP 2011-MA-093 Appl. under Sect(s).8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on errors in building locations to permit accessory structure to remain 4.8 ft. from side lot line and accessory storage structure to remain 2.0 ft. from side lot line. Located at 4508 Brookside Dr., Alexandria, 22312, on approx. 28,718 sq. ft. of land zoned R-1. Mason District. Tax Map 72-1 ((6)) 51. (Decision deferred from 1/11/12) 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 February 15, 2012; and

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

1. The applicant is the owner of the property.
2. There has been a lot of testimony.
3. Staff has done several reports and investigations.
4. The Board has found that a garage that was built many years ago and had vested rights in its location lost those vested rights when the applicant enlarged it in height and created much more bulk and interior space.
5. It would not be entitled to stay there in its present location by right.
6. The only way it would be entitled to remain in its present location would be by a special permit.
7. The applicant has withdrawn its application to keep the structure as it is in its enlarged fashion and has agreed to restore the garage to its pre-renovation size, which means taking out the upstairs enlarged area.
8. With that agreement, it is entitled to a special permit for the garage.
9. As far as the shed, it has been in its present location since 1984, and it is two feet from the side lot line.
10. There has not been any testimony that it has had an impact on the neighbor or has been a problem for anyone.
11. The applicant has presented testimony indicating partial compliance when the applicant restores the garage to its pre-reconstructed standards.
12. The Board determined that the applicant has met Standards A through G of Sect. 8-914, as indicated.

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 limitations:

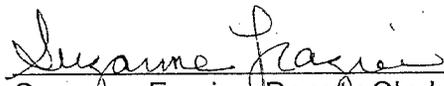
- 1. This special permit is approved only for the location of the accessory storage structure and accessory garage structure, as shown on the plat prepared Dominion Surveyors, Inc., dated September 14, 2011, revised through December 15, 2011, submitted with this application and is not transferable to other land as noted in Condition 2 and subject to the following:
 - a. Restoration of the detached accessory garage to its original height, as evidenced by the flashing remaining from the original garage found inside the existing structure, and to its original architectural form, similar to the detached garage structure depicted in Attachment 1 and located at 4505 Brookside Drive. The garage shall be used primarily for the storage of cars and shall not be converted to any other use not permitted by right.

2. The applicant shall submit and obtain approval of a building permit within six months of the approval of this special permit, and renovation of the detached garage shall be complete and final building inspections approved within eighteen months of this special permit.

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 5-0. Mr. Hart abstained from the vote. Mr. Beard was absent from the meeting.

A Copy Teste:



Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals

