

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ASHLEY NICOLE M. LE, SP 2010-LE-053 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building locations to permit addition to remain 20.0 feet from front lot line and accessory storage structures to remain 0.0 feet from rear lot line and 1.2 feet from the side lot line. **(THE BZA APPROVED THE FRONT PORCH ADDITION ONLY.)** Located at 8116 Martha St. on approx. 7,259 sq. ft. of land zoned R-2 and HC. Lee District. Tax Map 101-4 ((5)) 10 (Concurrent with VC 2010-LE-006). (Admin. moved from 12/1/10 and 5/4/11 for ads) (Admin. moved from 1/26/11 at appl. req.) (Decision deferred from 6/22/11, 9/28/11, 10/26/11, and 1/11/12) Mr. Hart 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 28, 2012; and

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

1. The applicant is the owner of the land.
2. The applicant has in part satisfied the required standards for the special permit.
3. The porch in the front is not going to have a significant negative impact on anyone.
4. The Board can approve the addition in the front of the dwelling. The rest of it, as was discussed, there are problems.
5. There were objections from the neighbor in the back.
6. This approval also does nothing about the fence situation in the back, which is confusing some of this.
7. The issue of the fence in the back is going to be between the two property owners and not something that the Board is resolving.
8. Given the explanations that the Board has heard, some additional time would be appropriate, for which conditions will be added.
9. At least with respect to the addition in the front of the dwelling, the applicable mistake section resolutions have been satisfied.

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 the existing 10 foot high addition as shown on the plat prepared by Stephen L. Moore Land Surveying, Inc., dated September 25, 2007, as revised through January 5, 2012, submitted with this application and is not transferable to other land.
2. Within six months of approval of this application, building permits and final inspections for the addition shall be diligently pursued and obtained or the structure shall be removed or brought into compliance with Zoning Ordinance Requirements.
3. No accessory structures/storage structures on site shall be used as living space.

4. Within six months of approval of this application, the accessory storage structures (sheds) as shown on the plat shall be removed and the amount of minimum rear yard coverage be reduced to no more than 30 percent.

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.

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

A Copy Teste:



Kathleen A. Knoth
Clerk to the Board of Zoning Appeals