

## COUNTY OF FAIRFAX, VIRGINIA

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

RUSSELL R. PAUGH, SP 2011-BR-008 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 addition to remain 5.9 ft. from side lot line and accessory storage structure to remain 0.45 ft. from side lot line and 5.76 ft. from rear lot line. **(THE BZA DID NOT APPROVE THE ACCESSORY STORAGE STRUCTURE.)** Located at 7305 Leesville Blvd. on approx. 10,630 sq. ft. of land zoned R-3. Braddock District. Tax Map 80-1 ((2)) (8) 2. (Admin. moved from 4/20/11 and 5/25/11 at appl. req.) 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 June 8, 2011; and

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

1. The applicant is the owner of the property.
2. With regard to the garage/shed on the right-hand part of the house, the applicant met the required standards, A through G.
3. The impact on the neighborhood is minimal.
4. The Board had testimony by the neighbor next door that it has no impact on him and he is in favor of the garage.
5. The encroachment into the side yard does not extend the entire length of the garage; it is just one corner.
6. With respect to the storage shed, the applicant has indicated that he is willing, and has been willing all along, to reduce the size of the shed to bring it into compliance.
7. That being the case, the applicant would not be meeting Standard F, which is to force compliance would cause unreasonable hardship upon the owner; apparently it will not cause unreasonable hardship.

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 limitations:

- 1. This special permit is approved for the location of the garage/storage addition, as shown on the plat prepared by Aultec, Inc., dated May 2010, as revised through November 24, 2010 and signed January 6, 2011 by James A. Afful, Professional Land Surveyor, as submitted with this application and is not transferable to other land.
- 2. Within six months of approval of this special permit, all structures on the property shall be brought into conformance with the Zoning Ordinance. The applicant shall obtain an electrical inspection and all applicable permits for the shed.

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. Hart seconded the motion, which carried by a vote of 6-1. Mr. Byers voted against the motion.