

## COUNTY OF FAIRFAX, VIRGINIA

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

GERTRUDE M. JENKINS, SP 2011-PR-001 Appl. under Sect(s). 8-914 and 8-923 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 5.2 ft. from rear lot line and 6.1 ft. from side lot line and to permit existing fence greater than 4.0 ft. in height to remain in a front yard. Located at 2920 Summerfield Rd. on approx. 10,023 sq. ft. of land zoned R-4. Providence District. Tax Map 50-4 ((15)) 73. (Concurrent with VC 2011-PR-003). 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 April 6, 2011; and

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

1. The applicant is the owner of the land.
2. The applicant has presented testimony indicating compliance with Sect. 8-006, Special Standards for Special Permit Uses, and Sect. 8-914, Provisions for Approval of Reduction to the Minimal Yard Requirements Based on Error in Building Location.
3. The applicant has satisfied the standards set forth in Sub. Sects. A through G of the Ordinance, which is incorporated herein.
4. In particular, the noncompliance was done in good faith or through no fault of the property owner through a contractor.
5. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity.
6. Double front yard setback requirements create an additional burden on an applicant.
7. The shed has been in existence for quite some time and apparently created no problems within the community.
8. The applicant has tried to comply with the Ordinance in making these improvements on the property.

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 of an existing accessory storage structure (shed) and existing vinyl fence as shown on the plat prepared by George M. O'Quinn, Land Surveyor, Dominion Surveyors Inc., dated December 29, 2009, as revised through March 11, 2011, submitted with this application and is not transferable to other land.
- 2. The finials shall be removed or reduced in height to be in conformance with Sect. 10-104 (3J) of the Fairfax County Zoning Ordinance.

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. Byers seconded the motion, which carried by a vote of 7-0.