

## COUNTY OF FAIRFAX, VIRGINIA

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

EDDIE MITCHELL, SP 2012-BR-012 Appl. under Sect(s). 8-914 and 8-918 of the Zoning Ordinance to permit reduction to the minimum yard requirements based on error in building location to permit roofed deck to remain 9.6 ft. from side lot line and to permit an accessory dwelling unit in an existing dwelling. **(THE APPLICANT WITHDREW THE REQUEST FOR THE ACCESSORY DWELLING UNIT.)** Located at 8512 Braeburn Dr., Annandale, 22003, on approx. 11,904 sq. ft. of land zoned R-3. Braddock District. Tax Map 70-1 ((16)) 214. 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 June 6, 2012; and

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

1. The applicant is the owner of the land.
2. Based on the record before the Board, the applicable standards have been satisfied.
3. It is going to be a big production to remove the little tip of the porch that is extending into the minimum side yard.
4. The applicant did not do it. His contractor did it.
5. There would not be any significant difference, given the size of the structure and the distance to adjacent homes, whether the porch extends two feet less at the back of the house since no one can see it.
6. The Board has determined that the standards in the mistake section resolution have been satisfied.
7. Based on the explanation at the hearing, the request for an accessory dwelling unit is withdrawn, so the Board does not need to consider any of the issues with that, parking, et cetera. All the Board is dealing with is the porch.

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 approval is granted to the applicant only, Eddie Mitchell, and is not transferable without further action of this Board, and is for the location indicated on the application, 8512 Braeburn Drive (11,904 square feet), and is not transferable to other land.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by James D. Thurber, L.S., Thurber Engineering & Land Surveying, dated February 6, 2012, and approved with this application, as qualified by these development conditions.
3. All applicable permits and final inspections for the roofed deck shall be diligently pursued and obtained within six months of final approval of this application.

This approval, contingent on 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 4-0. Chairman Ribble was not present for the vote. Ms. Gibb and Mr. Byers were absent from the meeting.

A Copy Teste:



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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals