

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MARGARETHA CARROLL MCGRAIL, TRUSTEE, SP 2012-DR-006 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 0.3 ft. from rear lot line and 0.1 ft. from side lot line. Located at 743 Lawton St., McLean, 22101, on approx. 21,781 sq. ft. of land zoned R-1. Dranesville District. Tax Map 21-2 ((3)) 30. (Continued from 4/18/12) 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 June 27, 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. The problem the Board had was that time seemed to have run out under the court order, and we were beyond the window of time for the Board to do anything. That has since been affected in that the Board has a memo from Ms. Cho showing that Judge Nordlund signed another order on May 2nd which would allow the Board to proceed to decide the special permit application without regard to any delays that might have occurred with respect to the filing of the application and/or the defendant's satisfaction of all requests to the BZA and County staff relative to such application.
4. The shed itself does not seem to be bothering anyone and is well away from much of anything except it seems to be up against the neighbors' pool house, which itself seems to be quite tall and close to the line and large. The status of the pool house is unknown, but this is certainly no worse than that.
5. It does not seem that there is any negative impact on anyone.
6. Consistent with what the Board heard, an approval would be appropriate.

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.

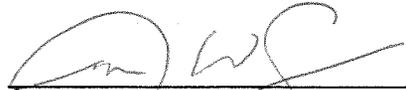
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location and size of the accessory storage structure (frame shed) as shown on the plat prepared by Highlander Surveying Services, P.C., dated September 23, 2011 and revised though January 13, 2012, as submitted with this application and is not transferable to other land.

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 7-0.

A Copy Teste:

A handwritten signature in black ink, appearing to read 'John W. Cooper', written over a horizontal line.

John W. Cooper, Deputy Clerk
Board of Zoning Appeals