

## COUNTY OF FAIRFAX, VIRGINIA

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

GLENDIA SUE STUMP, SP 2012-BR-025 Appl. under Sect(s). 8-914 and 8-918 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit shed to remain 2.5 ft. from rear lot line and 4.4 ft. from side lot line and to permit accessory dwelling unit within an existing dwelling. Located at 7321 Jervis St., Springfield, 22151, on approx. 10,762 sq. ft. of land zoned R-3. Braddock District. Tax Map 71-3 ((4)) (36) 15. 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 July 18, 2012; and

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

1. The applicant is the owner of the land.
2. The Board had testimony that the applicant's now deceased husband constructed this shed over 20 years ago and was given information by the County that he did not need a building permit and was unaware it was in an easement.
3. The shed has been there for over 20 years, not creating any problems.
4. It is further complicated by the fact that the shed is at least partially in a drainage easement.
5. It would be difficult to shift the shed because of the way it is constructed on the footings.
6. The Board has had several cases recently where there have been drainage easements of some sort. For one reason or another, one was going to be abandoned recently. Another one was a fence was in a drainage easement for over 20 years or in a public easement that was set aside for drainage for over 20 years with no ill effects.
7. In this particular case, the Board has testimony indicating there are three more sheds in this easement at the same intersection, none of which seem to be causing any drainage problems.
8. Because the shed is only marginally encroaching into the easement, the shed should stay with conditions.
9. The Board has determined that the applicant has met the standards set forth in the Ordinance, A through G.

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. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the addition and kitchen in the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
- 2. This approval is granted to the applicant only, Glenda Sue Stump, and is not transferable without further action of this Board, and is for the location of the accessory dwelling unit and shed indicated on the application, 7321 Jervis Street (10,762 square feet), as shown on the plat prepared by Apex Surveys, dated May 18, 2011, and is not transferable to other land.

3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
5. The accessory dwelling unit shall contain a maximum of 900 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
6. All applicable trade permits and final inspections shall be obtained for the kitchen components within 120 days of approval of this special permit.
7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
8. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
9. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
10. All parking shall be provided on site as shown on the special permit plat.
11. In the event of construction or use for development in the storm drainage easement, the applicant shall assume all financial and other responsibility for the repair, removal, relocation or replacement of the existing shed and indemnify Fairfax County from all liability thereon.
12. The shed shall be maintained in good repair at all times.

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 5-0. Mr. Smith and Mr. Byers were absent from the meeting.

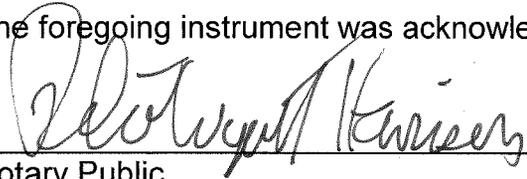
A Copy Teste:

  
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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals

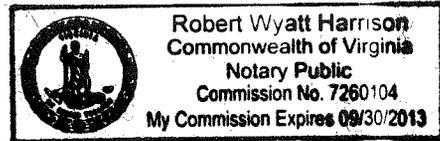
ACKNOWLEDGEMENT

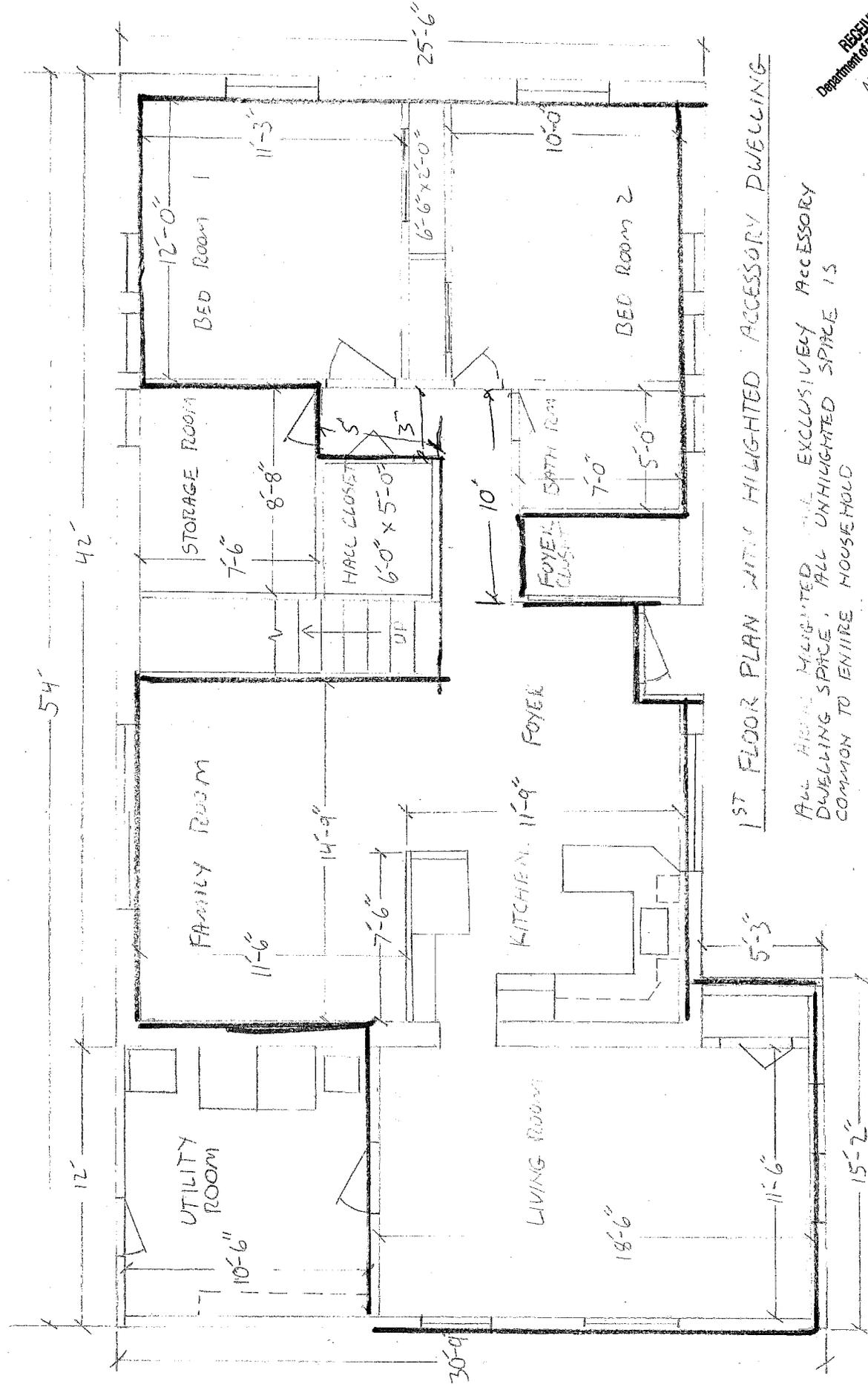
County of Fairfax  
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 24 day of July, 2012.

  
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Notary Public

My commission expires: 9-30-2013





1<sup>ST</sup> FLOOR PLAN WITH HIGHLIGHTED ACCESSORY DWELLING

ALL AREAS HIGHLIGHTED ARE EXCLUSIVELY ACCESSORY DWELLING SPACE. ALL UNHIGHLIGHTED SPACE IS COMMON TO ENTIRE HOUSEHOLD

TOTAL SQFT 1<sup>ST</sup> AND 2<sup>ND</sup> FL = 2957 SQFT  
 ACCESSORY DWELLING SQ FT = 900 SQ FT (30%)

RECEIVED  
 Department of Planning & Zoning  
 APR 28 2019  
 Zoning Evaluation Division

STUMP RESIDENCE  
 7321 TERVIS ST SPRING-FIELD VA  
 EXISTING 1<sup>ST</sup> FL  
 PREPARED BY  
 PLAN SCALE 1/8" = 1'-0"  
 PAUL WILHOIT