

## COUNTY OF FAIRFAX, VIRGINIA

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

ESPERANZA E. MARTINEZ, SP 2012-MA-036 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit an accessory structure to remain 0.7 ft. from side lot line and 8.7 ft. from rear lot line and reduction of certain yard requirements to permit construction of addition 10.2 ft. from side lot line. Located at 7725 Arlen St., Annandale, 22003, on approx. 10,505 sq. ft. of land zoned R-3. Mason District. Tax Map 70-2 ((6)) 157. 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 September 12, 2012; and

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

1. The applicant is the owner of the property.
2. The Board has a staff recommendation of denial for the addition, although the Board believes the basis for the denial was more the absence of specificity about how the structure would be completed rather than the location or existence of the structure.
3. For what it is, enclosing what was a carport into a garage, it does not seem it is going to be a problem.
4. The bulk of the structure is about the same whether it is a carport or garage.
5. It has a pretty substantial roof.
6. It has a brick wall around part of it and a pretty massive foundation.
7. It is no closer to the side lot line.
8. What is unusual about it is that the appearance of it now is not particularly attractive, and it has been a little vague to this point what it was going to be.
9. However, that can be addressed with some additional specificity in the development conditions.
10. The Board has not heard a whole lot about the shed, but it does not seem to be bothering anyone and it seems to have been there for some time.
11. It is in a back corner of the lot.
12. The Board has not had any testimony against it.
13. From the record before the Board, the application meets the required standards so long as the Board provides some greater specificity with respect to the completion of the garage.
14. It would be perhaps somewhat more compatible and somewhat more consistent with the structures around it if there was a window or something somewhere on the exterior walls.

15. Most of the homes and most of the garages that we see tend to have something, but the Board did not know if that standing alone is a basis for denial.
16. There are such things as garages that do not have doors or windows.
17. The Board has determined that the Sect. 8-922 criteria have been met.
18. The applicant has met the criteria under Sect. 8-914 with respect to the location of the shed.

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:

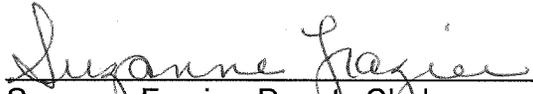
1. This special permit is approved only for the location of the accessory storage structure, and the garage addition (approximately 550 square feet), as shown on the plat prepared by Dominion Surveyors, Inc., dated February 1, 2012, signed by George M. O'Quinn, Land Surveyor, submitted with this application and is not transferable to other land.
2. 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. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,249 square feet existing + 3,373.5 square feet (150%) = 5,622.5 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The garage addition shall be generally consistent with the sketch attached as Exhibit A.
5. The exterior walls on the front, side, and rear of the garage above the existing bricks and up to the eave shall be finished with siding consistent with the rest of the structure. The exposed plywood shall be covered with siding.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

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

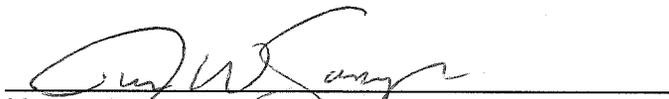
A Copy Teste:

  
Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax  
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of September, 2012.

  
Notary Public

My commission expires: September 30, 2016



John W. Cooper  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. #7518586  
My Commission Expires  
September 30, 2016

7725 Arlen St  
Annandale, Va 22003

Exhibit A

Special Permit N<sup>o</sup>: SP2012-0072

