

## COUNTY OF FAIRFAX, VIRGINIA

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

PAUL C. SKIBA, SP 2012-LE-060 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 structure (garage) to remain 2.8 ft. from side lot line and accessory storage structures to remain 2.6 ft. from side lot line and 1.2 ft. from rear lot line, 3.3 ft. from side lot line, and 3.7 ft. from side lot line. Located at 6421 Windham Ave., Alexandria, 22315, on approx. 22,000 sq. ft. of land zoned R-1. Lee District. Tax Map 91-3 ((3)) 77. Ms. Gibb 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 November 28, 2012; and

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

1. The applicant is the owner of the property.
2. This is a lot of things on this lot, but they have been there a long time and seemingly without complaint.
3. There was testimony that despite the fact that the garage is only 2.8 feet from the side lot line and quite long, 48.8 feet, and it has a propane tank located next to it, that the location of the propane tank has been inspected and does not pose a fire hazard and can remain located there.
4. The Board has testimony that the neighbor on Lot 76 is okay with the impact of the garage, and, again, it has been there at least since 1997.
5. The three sheds, one of which cannot be moved without disintegrating, and the other two, which have also been there a long time, seem not to have much of an impact on the neighbors as well.
6. The Board determined that the applicant has met Standards 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.

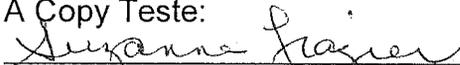
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This special permit is approved only for the location of the existing vinyl garage and sheds as shown on the plat prepared by George M. O'Quinn, dated February 27, 2012 as revised through August 13, 2012, submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections shall be obtained for the garage and if required for the shed and shelter within 180 days of approval of this application.

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

A Copy Teste:

  
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Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals