

## COUNTY OF FAIRFAX, VIRGINIA

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

THOMAS A. LOVE & LORA L. LOVE, SP 2012-MV-057 Appl. under Sect(s). 8-914 and 8-923 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit deck to remain 1.5 ft. from side lot line and modification to permit fence greater than 4.0 ft. in height to remain in the front yards of a corner lot. Located at 1901 Rollins Dr., Alexandria, 22307, on approx. 9,825 sq. ft. of land zoned R-4. Mt. Vernon District. Tax Map 93-1 ((23)) (13) 19. Mr. Byers 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 applicants are the owners of the property.
2. The applicants are in compliance with items 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 for the location of an at-grade patio and the location and maximum height of 6.0 feet of a wood fence, as shown on the plat prepared by SDE Suburban Development Engineering dated March 5, 1990 as revised and sealed through July 3, 2012, submitted with this application and is not transferable to other land.
2. Within 90 days of approval of this special permit, the applicant shall remove any portion of fence from the front yards at the intersection of Griffin Drive and Colgate Drive which encroaches into the minimum sight distance requirements per Zoning Ordinance Sect. 2-505 regulations.
3. The applicant shall assume all responsibility for repair and/or replacement of any portions of the fence which must be removed to accommodate repairs and/or maintenance within the right-of-way as shown on the special permit plat.

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. Hart seconded the motion, which carried by a vote of 5-0. Mr. Smith and Mr. Beard were absent from the meeting.

A Copy Teste:

  
Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals