

## COUNTY OF FAIRFAX, VIRGINIA

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

JOHNNY LE, SP 2012-MA-045 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 addition to remain 5.7 ft. from side lot line and deck to remain 7.5 ft. from side lot line and to permit existing fence greater than 4.0 ft. in height to remain in front yard. Located at 6902 Columbia Pike, Annandale, 22003, on approx. 10,910 sq. ft. of land zoned R-3. Mason District. Tax Map 60-4 ((16)) (L) 1A. (Decision deferred from 10/17/12 and 11/28/12) 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 January 30, 2013; and

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

1. The applicant is the owner of the land.
2. The Board has determined that the applicant is in compliance with A through G set forth in Sect. 8-914.
3. Staff recommends approval, and the Board adopts its rationale.

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.

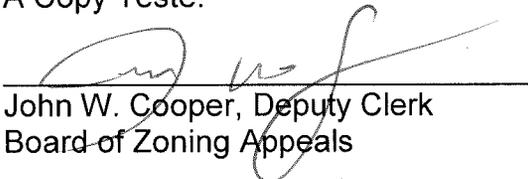
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This special permit is approved for the one story garage addition located 5.7 feet from the side lot line, location of fences in the front yard, and pillars at the maximum heights as shown on the special permit plat, prepared by Alexandria Surveys, LLC dated January 2, 2012, as sealed through June 11, 2012, as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections shall be obtained for the addition and deck enclosure within six (6) months of approval of this special permit.
3. The applicant shall obtain approval from the Zoning Administrator for a reduction of minimum yard requirements for a deck in the rear yard or the deck shall be removed or brought into conformance with the Zoning Ordinance.
4. The lattice work located underneath the deck shall be removed.

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 5-0. Chairman Ribble and Mr. Hammack were absent from the meeting.

A Copy Teste:

  
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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals