

## COUNTY OF FAIRFAX, VIRGINIA

### VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

JAMES L. LESLIE AND BERNADETTE BOKA LESLIE, VC 2012-MA-005 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit an accessory storage structure to remain in a front yard of a lot containing 36,000 sq. ft. or less. Located at 4399 Medford Dr., Annandale, 22003 on approx. 13,182 sq. ft. of land zoned R-4. Mason District. Tax Map 71-1 ((15)) 86 (Concurrent with SP 2012-MA-070). 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 13, 2013; and

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

1. The applicants are the owners of the property.
2. The present zoning is R-4.
3. The area of the lot is 13,182 square feet.
4. It does meet the standards.
5. The subject property was acquired in good faith.
6. Under Number 2, an exceptional shape at the time of the effective date of the Ordinance is in force and an extraordinary situation or condition of the subject property.
7. The Board has had these kinds of cases before.
8. The Board has some flexibility in this.
9. The condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board.
10. The granting of a variance will clearly alleviate a demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
11. It is not going to be a substantial detriment to adjacent properties.
12. The character of the Zoning Ordinance is not going to be changed.
13. The variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.
14. There are some mitigating circumstances with regard to this.
15. Frankly, this whole case concerns the Board.
16. There obviously could have been a better process.
17. The process is complaint driven.
18. The Board did not see any evidence of a complaint by anyone in the neighborhood.
19. It has been in existence for a significant period of time.
20. There was support from at least 10 adjacent members.
21. It is well-screened and well-constructed.

22. It is less than 200 square feet, and may not have required a building permit.
23. It has no electricity or plumbing.
24. The Board was not sure how any resident would have understood that he or she would have been in violation of anything.
25. There are other mitigating circumstances from the standpoint of what has actually happened at the residence.
26. The Board has shown some judgment in times past from the standpoint of variances.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;
  - B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property, or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
  - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
  - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

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

1. This variance is approved for the wood shed in the front yard on the property as shown on the plat prepared by Dickerson Survey and Arborist Services, dated March 25, 2011, and revised through May 20, 2012, as submitted with this application and is not transferable to other land.

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 including requirements for building permits.

Mr. Beard seconded the motion, which carried by a vote of 4-1-1. Mr. Hart voted against the motion. Mr. Hammack abstained from the vote. Ms. Gibb was absent from the meeting.

A Copy Teste:



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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals