

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

MICHAEL C. WARREN, VC 2012-LE-008 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit accessory storage structure to remain in the front yard of a lot containing 36,000 sq. ft. or less. Located at 7232 Constantine Ave., Springfield, 22150, on approx. 26,390 sq. ft. of land zoned R-1. Lee District. Tax Map 90-3 ((6)) 40. (Concurrent with SP 2012-LE-079) (Decision deferred from 2/6/13). 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 February 6, 2013; and

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

1. The applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 26,390 square feet.
4. The subject property was acquired in good faith.
5. It has at least one of the following characteristics: It does have exceptional narrowness at the time of the effective date of the Ordinance; and a case could be made for exceptional shape and an extraordinary condition.
6. There are a couple things that have consistently concerned Board members.
7. This shed has been in existence for a significant period of time.
8. It is less than 200 square feet, which means that when it was built, it would not have required a building permit.
9. It does not contain either electricity or plumbing.
10. When it was built 20 years ago, DPWES would not have referred a case like this to Zoning to get some kind of interpretation about the location of the shed.
11. Twenty years ago, the County did not have a website where people could look and make a determination whether something was placed correctly or not.
12. Most people, particularly in corner lots, believe that those sheds are in a side yard because most people who are citizens of Fairfax County really do not realize what the situation is, whether it is a front or side yard.

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.

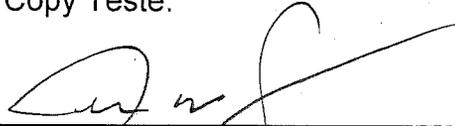
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the location of a shed in the front yard as shown on the plat prepared by William E. Ramsey, dated July 25, 2012, signed October 19, 2012, and revised 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 5-0. Mr. Hart recused himself from the hearing. Mr. Hammack was absent from the meeting.

A Copy Teste:



John W. Cooper, Deputy Clerk
Board of Zoning Appeals