

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

DIANE G. SPITTLE, SP 2012-MV-089 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 addition to remain 8.1 ft. from side lot line. Located at 8115 Cooper St., Alexandria, 22309, on approx. 13,451 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 101-1 ((2)) 600. Mr. Hammack 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 March 20, 2013; and

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

1. The applicant is the owner of the land.
2. This addition, if it is an addition, assuming there is some sort of attachment to the house, has been there for 27 years and was constructed following the issuance of a valid building permit for the pool and the equipment associated with the pool.
3. It has not been a problem since that time until recently.
4. It does not have any impact on the neighbors, except for the complaining party.
5. The Board has a number of letters in support, including the most adjacent neighbors.
6. The Board has determined that the applicant has satisfied the specific standards set forth in Subsections A through G of the code section, in particular, Subsection B, that the non-compliance was done in good faith that through no fault of the property owner, was a result of an error in the location of the building subsequent of the issuance of a building permit.

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 the shed addition as shown on the plat prepared by Alexandria Surveys LLC, dated September 5, 2012, signed September 14, 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 shed addition 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. Beard and Ms. Gibb were absent from the meeting.

A Copy Teste:



John W. Cooper, Deputy Clerk
Board of Zoning Appeals