COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SANTOS G. AMAYA, SP 2013-PR-009 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit addition to remain 6.8 ft. from side lot line. Located at 7212 Tyler Ave, Falls Church, 22042, on approx. 8,968 sq. ft. of land zoned R-4. Providence District. Tax Map 50-3 ((9)) 18. Mr. Smith 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 April 24, 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 application does meet the requirements in Section 8-914.
3. As was testified to, one could see how something like this could happen with the angled placement of the structure in this case.
4. If the lines were all parallel to the side lot lines, there would not have been a problem here, not a problem with the front yard setback.
5. Relatively minor impact particularly in this case, the person most directly impacted is the applicant who owns the property adjacent.
6. This would not be detrimental to the use and enjoyment of other property in the immediate vicinity as was shown by the applicant with the examples in the neighborhood.
7. It will not create an unsafe condition with respect to property or public streets.
8. To force compliance with the yard requirements would cause an unreasonable hardship upon the owner in removing the structure in this case, which was constructed to be parallel and not go past the east side of the house.

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 addition as shown on the plat, titled "Special Permit Plat, Lot 18, Section 1, Tyler Park," prepared by Scartz Surveys, dated August 28, 2012, and revised through January 8, 2013, 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 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.

Ms. Gibb seconded the motion, which carried by a vote of 7-0.

A Copy Teste:

K.A. Knoth

Kathleen A. Knoth
Clerk to the Board of Zoning Appeals