

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SAIRA AND FARHAN ALI, SP 2013-LE-005 Appl. under Sect(s). 8-914, 8-918 and 8-923 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit accessory structure to remain 4.9 ft. from side lot line, to permit an accessory dwelling unit within an existing dwelling and to permit existing fence greater than 4.0 ft. in height to remain in front yard. Located at 6232 Park Ter., Alexandria, 22310, on approx. 19,654 sq. ft. of land zoned R-3. Lee District. Tax Map 81-4 ((5)) 39A. (Admin. moved from 4/3/13 for notices.) Ms. Gibb 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 17, 2013; and

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

1. The applicants are the owners of the land.
2. The applicant's testimony is that they hired a licensed contractor, and they did not understand that they needed a permit for a kitchen in the basement.
3. The unit is currently unoccupied and will be presently occupied by the residents' parents who are over the age of 55, so they do comply with all the required standards for a special permit for an accessory dwelling unit.
4. With respect to the playground equipment, the equipment has been there for several years, and there has not been a complaint.
5. It does not seem to have an impact, and it is behind a fence.
6. With respect to the fence, as Mr. Hart indicated, if it were a foot or so more on the townhouse association property, it would be allowed to be seven feet.
7. It does not seem to have any sight distance issue or impact on the neighbors.

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. These conditions shall be recorded by the applicants among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicants only, Saira F. Ali and/or Farhan A. Ali, and is not transferable without further action of this Board, and is for the location indicated on the application, 6232 Park Terrace (0.45 acres), and is not transferable to other land.
3. This special permit is approved for the location of the accessory structure (play equipment), the accessory dwelling unit and the fence in the front yard as shown on the special permit plat.
4. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in

accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.

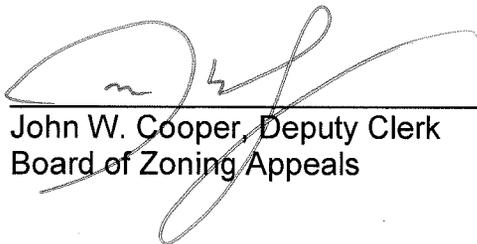
6. The accessory dwelling unit shall contain a maximum of 275 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for the kitchen in the accessory dwelling unit.
8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice, and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory unit shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
11. All parking shall be provided on site as shown on the special permit plat.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, twelve (12) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

Mr. Smith seconded the motion, which carried by a vote of 7-0.

A Copy Teste:

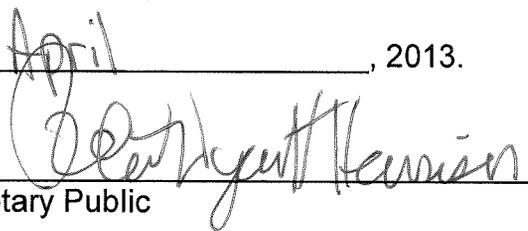


 John W. Cooper, Deputy Clerk
 Board of Zoning Appeals

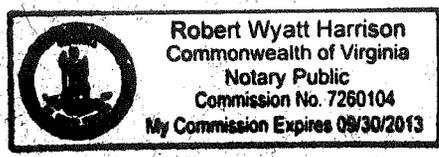
ACKNOWLEDGEMENT

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 19 day of April, 2013.



 Notary Public



My commission expires: 9-30-2013

