

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CHRISTOPHER A. HARRIS AND ABIGAIL M. HARRIS, SP 2012-PR-069 Appl. under Sect(s). 8-914, 8-922 and 8-923 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure with attached roofed deck 2.4 ft. from side lot line and 1.4 ft. from rear lot line and to permit fence greater than 4.0 ft. in height to remain in front yard of a corner lot. Located at 2622 Shelby Ln., Falls Church, 22043, on approx. 13,735 sq. ft. of land zoned R-3. Providence District. Tax Map 49-2 ((7)) 13. (Indefinitely deferred from 1/9/13 at appl. req.) (Reactivated on 12/20/12) 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 February 13, 2013; and

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

1. The applicants are the owners of the land.
2. With respect to the storage structure with attached roof and deck, it is going to have relatively minimal impact on neighboring property owners.
3. Looking at the statement of justification, it mentions a number of different houses with similar structures.
4. This is on a corner lot.
5. There will not really be any impact on others.
6. It was done in good faith.
7. As referenced by the applicant, the shed was replacing a prior shed that was old and rotting in the same location.
8. Relative to the fence, as noted in the statement of justification and by staff, it does not have any issues with sight distance requirements.
9. It is on a corner lot.
10. As referenced with the shed on the first variance case the Board had at this meeting, it feels like a side yard as you are looking at the house.
11. It is not inconsistent at least with the neighborhood.
12. It is not going to adversely impact the community.

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.

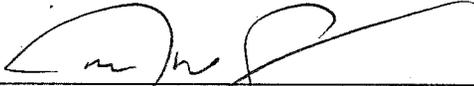
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of fences in the front yards, a maximum 6.0 feet in height as shown on the special permit plat, and an accessory storage structure (shed) with attached roofed deck as shown on the plat prepared by GeoEnv Engineers dated December 19, 2012, as revised through December 21, 2012, signed by Ibrahm A. Chehab, Professional Engineer, as submitted with this application and is not transferable to other land.
- 2. The applicants shall obtain applicable building permits and inspections for the shed within 180 days of approval of this special permit.

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 6-0. Mr. Hammack was absent from the meeting.

A Copy Teste:



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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals