

## COUNTY OF FAIRFAX, VIRGINIA

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

PAMELA M. BROUDER, SP 2012-BR-078 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction of minimum yard requirements based on error in building location to permit addition to remain 13.2 ft. from rear lot line and to permit reduction of certain yard requirements to permit construction of an addition 13.8 ft. from rear lot line. Located at 10514 Indigo Ln., Fairfax, 22032, on approx. 12,521 sq. ft. of land zoned R-2 (Cluster). Braddock District. Tax Map 68-4 ((7)) 22A. Mr. Hart 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. With respect to the mistake section resolution, the applicant has presented testimony showing compliance with the required standards.
3. The magnitude of the error with respect to the underneath part is relatively modest.
4. What appears to have happened is that a small area beneath the hot tub has been enclosed.
5. It is difficult to see. It is largely concealed by the existing deck and the steps, and the location of it is actually significantly further away from the lot line than the 13.2 feet, which apparently corresponds to the corner of the step extension.
6. There would not be any significant negative impact on anyone by allowing that to remain. In fact, it would be ugly if you removed the panels so as to expose the machinery or underneath of the hot tub.
7. With respect to the Sect. 8-922 resolution and the addition, it is really adding a screened porch on top of an existing deck at the rear of the property.
8. It is heavily concealed.
9. It sticks out less than the existing structures.
10. There would not be any significant negative impact on anyone.
11. It would not significantly change the impact from what is there already.
12. With the development conditions as modified, any impacts have been satisfactorily addressed.
13. The Board has a favorable staff recommendation at least with respect to the screened porch component of this, and the Board adopts the rationale in the staff report.

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 applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.

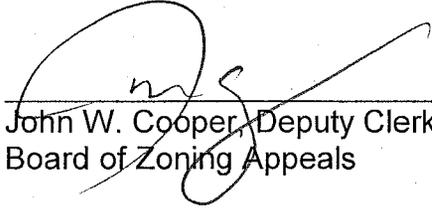
2. This special permit is approved only for the location of the existing enclosed deck addition and the proposed screened porch addition (approximately 441 square feet), as shown on the plat prepared by Harold A. Logan Associates, P.C., dated July 3, 2012, as revised through December 28, 2012, signed by Harold A. Logan, Land Surveyor, submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,800 square feet existing + 4,200 square feet (150%) = 7,000 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall generally be consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
5. All accessory structures shall be subject to the use limitations of Sect. 10-103 and 10-104 of the Zoning Ordinance.
6. The applicant shall obtain permits and inspections for the enclosure beneath the deck within 180 days.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction 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. Hammack seconded the motion, which carried by a vote of 5-0. Mr. Smith and Mr. Byers were absent from the meeting.

A Copy Teste:

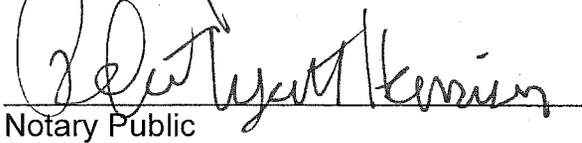
  
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John W. Cooper, Deputy Clerk  
Board of Zoning Appeals

ACKNOWLEDGEMENT

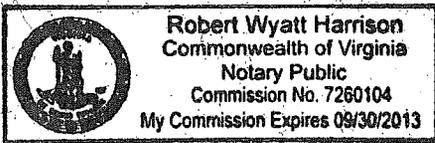
County of Fairfax  
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 14 day of

February, 2013.

  
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Notary Public

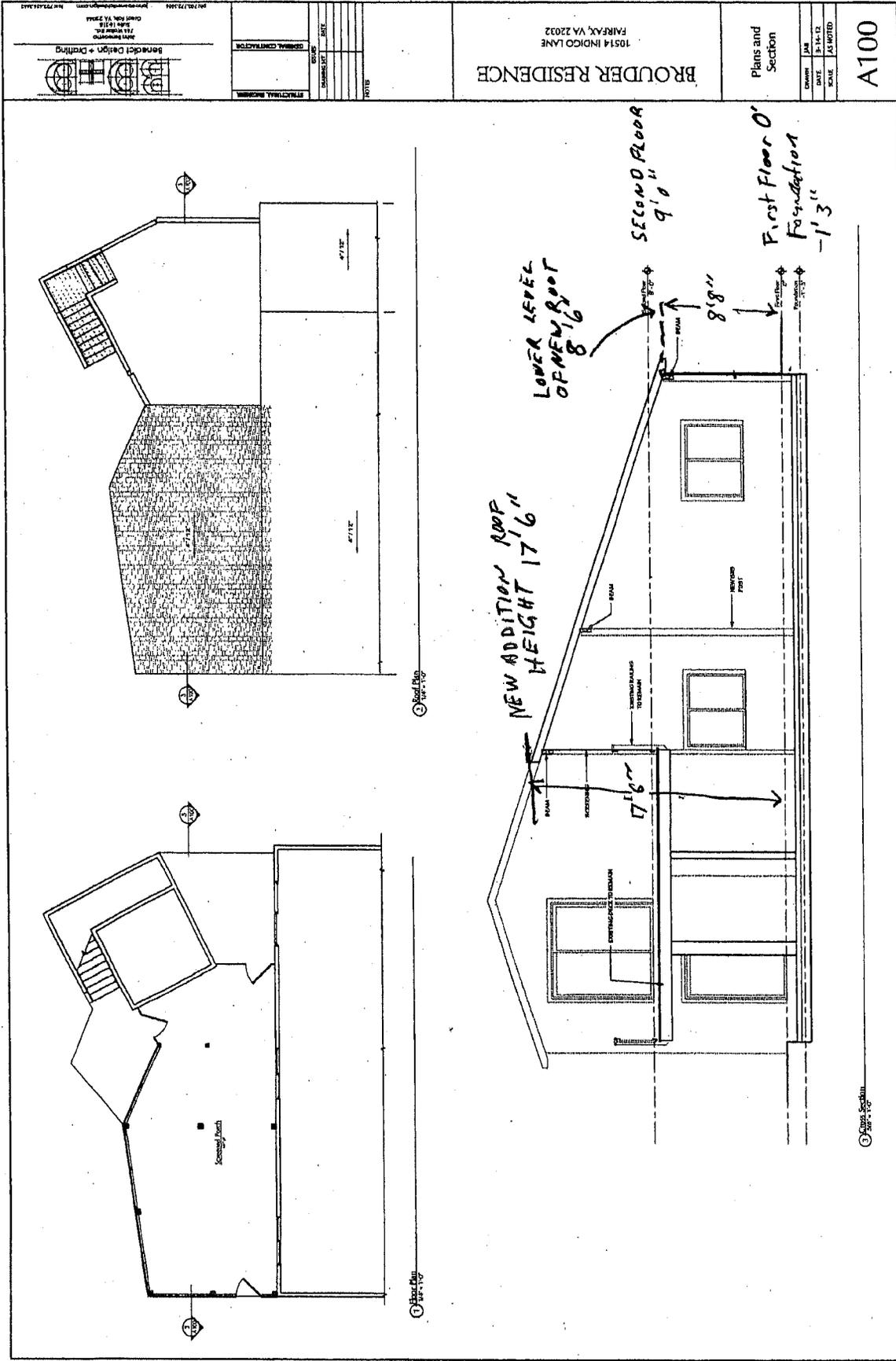
My commission expires: 9-30-2013

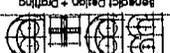











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| NO. | DATE | DESCRIPTION |
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BROUDER RESIDENCE  
 10514 INDIGO LANE  
 FAIRFAX, VA 22032

Plans and Section

| OWNER | DATE    | SCALE    |
|-------|---------|----------|
| JAB   | 3-14-12 | AS NOTED |

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