

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ERIC EDWARDS, SP 2013-MV-011 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 accessory structure to remain 5.1 ft. from rear lot line. Located at 4116 Ferry Landing Rd., Alexandria, 22309, on approx. 13,611 sq. ft. of land zoned R-2. Mt. Vernon District. Tax Map 110-4 ((2)) (F) 140A. (Admin. moved from 4/24/13 for notices.) 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 May 15, 2013; and

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

1. The applicant is the owner of the land.
2. Based on the testimony of the applicant's agent, the intention was to build a seven-foot fireplace, which would be in compliance under the Zoning Ordinance.
3. Due to some changes during the construction of it, the height of the chimney was increased by nine inches, which brings it into non-compliance.
4. The mistake was unwitting, done in good faith, and through no fault of the property owner.
5. It could have been corrected, had they known, by moving the fireplace in .9 feet, and a special permit would not have been needed.
6. Inasmuch as the development conditions require the applicant to meet building code requirements, including anything that would be applicable to fireplaces for safety purposes, the applicant has satisfied the standards under Sect. 8-914 to allow it to remain in its present location.
7. The Board has determined that the applicant has satisfied Subsections A through G of Sect. 8-914, in particular B, C, and D.

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 stone fireplace as shown on the special permit plat prepared by Alterra Surveys, dated March 9, 2012, as revised through December 19, 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 accessory structure (outdoor fireplace) within six months of the approval of the 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.

Mr. Beard seconded the motion, which carried by a vote of 6-0. Ms. Gibb was absent from the meeting.

A Copy Teste:



Kathleen A. Knoth
Clerk to the Board of Zoning Appeals