

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ROBERT M. GRIMS AND YUNG H. KIM, SPA 2011-PR-083 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to the minimum yard requirements based on errors in building locations to permit additions to remain 16.3 ft. and 11.6 ft. from rear lot line. Located at 9750 Hatmark Ct., Vienna, 22181, on approx. 7,571 sq. ft. of land zoned R-4 (Cluster). Providence District. Tax Map 48-1 ((25)) 10. (Admin. moved from 3/6/13 due to inclement weather.) 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 1, 2013; and

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

1. The applicants are the owners of the land.
2. The Board has determined that the applicants have satisfied provisions Subsections A through G set forth thereunder, that the non-compliance was done in good faith or through no fault of the property owner.
3. It satisfies the other standards as well.
4. In particular, these improvements were approved two years ago.
5. It appears that due to construction changes and to meet code compliance, in order to do that, minor additional setbacks or encroachments are required to be approved.
6. The Board found that the additions in the original special permit application were in conformance and justified at that time.
7. Due to the circumstances of construction and the way these additional minor encroachments occurred, it satisfies the Ordinance at this time.

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 and size of the additions, as shown on the plat prepared by Scartz Surveys, dated June 28, 2011, as revised through October 11, 2012 submitted with this application and is not transferable to other land.

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

A Copy Teste:



John W. Cooper, Deputy Clerk
Board of Zoning Appeals