COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JAIME W. ZAMBRANA, SP 2013-MA-039 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 2.3 ft. from side lot line and decks 3.0 ft. and 3.8 ft. from side lot line. Located at 7201 Pine Dr., Annandale, 22003, on approx. 11,972 sq. ft. of land zoned R-4. Mason District. Tax Map 71-1 ((7)) (C) 1. 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 July 31, 2013; and

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

1. The applicant is the owner of the land.
2. In this case, the applicant has presented testimony that when he purchased the property, the main issue here is the large shed that has the laundry room in it, and the large shed was already on the property.
3. The applicant purchased it in 1997. That is a long time to have this existing without complaint.
4. It is a close case, but the applicant has met the standards required to obtain a special permit under the mistake section, section's A thru G.
5. The noncompliance was done in good faith.
6. The shed was there when he bought the property.
7. The fact that it is located right next door to his neighbor's shed means that the impact is minimized.
8. The Board has a complaint from neighbors driving by.
9. It is a corner lot, so you can see into the lot.
10. One shed has been removed, and it seems like there is other activity on the lot that has been cleaned up.
11. There is one shed that is there by right that may seem unkempt to passersby, but it is there by right so it is not currently before the Board.
12. It does not create an unsafe condition.
13. The Board has allowed sheds closer than 2.3 feet, and there is room for a human to get between the boundary line and the shed for maintenance purposes.
14. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
15. The owner obviously uses the shed and has testimony that he needs it because there are no laundry facilities in his home.
16. There is testimony that it does not seem possible to move it.
17. As far as the decking, there is testimony from the inspector that it does not cause a stormwater issue.

18. There does not seem to be any complaint from the neighbors about the concrete patio and the fact that it extends into the setback area.

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 locations of the accessory structure and decks as shown on the plat prepared by Inova Engineering Consultants, Inc., titled

"Special Permit Plat, Lot 1, Fairdale" dated May 28, 2013, 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 within 6 months of approval of this application.

3. The two sheds on the property shall be painted and maintained consistent with the existing home. The empty steel tank noted on the plat shall be removed.

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

A Copy Teste:

John W. Cooper, Deputy Clerk
Board of Zoning Appeals