

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ROBERT F. BALDWIN, JR. AND ANNE G. BALDWIN, SP 2013-MV-059 Appl. under Sect(s). 8-914 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 to remain 2.9 ft. from side lot line and 14.5 ft. from front lot line and to permit fence greater than 4.0 ft. in height in front yard. Located at 1901 Belfield Rd., Alexandria, 22307, on approx. 11,071 sq. ft. of land zoned R-4 and HC. Mt. Vernon District. Tax Map 83-4 ((3)) (2) 11. (Concurrent with VC 2013-MV-012). (Admin. moved from 10/30/13 at appl. req.) 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 November 6, 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 met the requirements set forth in subsections A through G.
3. In particular, the compliance was done in good faith or through no fault of the property owners.
4. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity.
5. It is interesting that these anonymous complaints are received regularly.
6. In this particular case, the applicant is replacing a fence.
7. It has been there 40 years.
8. It is a consistent design with another fence in the neighborhood.
9. The applicants had to go through the expense and time and effort of trying to legalize the fence.
10. In this particular case, the Board has many letters in support, including the citizens association and a letter in support from one of our supervisors.
11. Under the circumstances and based on the testimony, the applicant has satisfied all of these standards.
12. The shed is only 74 square feet.
13. Because of double front yard requirements, three are actually three (sic) front yards according to the plat.
14. It sits in a front yard, but it sits behind the distance or the setback of the house.
15. It is a functional backyard.

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:

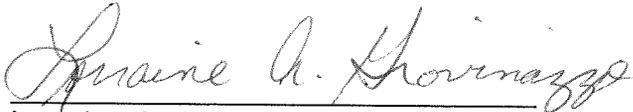
- 1. This special permit is approved for the height and location of the shed and of the fences as shown on the plat titled "Plat, Showing the Improvements on Lot 11, Block 2, Section 1, Belle Haven," prepared by George M. O'Quinn of Dominion Surveyors Inc., dated December 20, 2011, and revised through April 2, 2013, as submitted with this application and is not transferable to other land.

2. The fence in the front yard along Woodmont Road located in the Virginia Department of Transportation's (VDOT) right-of-way shall be removed, moved onto the application property, or a permit request for the fence to remain in the right-of-way shall be submitted to VDOT's Fairfax Permits Office for review and approval.
3. Notwithstanding any VDOT approval, the portion of the fence over 6.0 feet in height shall be reduced to a maximum of 6.0 feet.

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

A Copy Teste:



Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals