

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CARL EY AND JENNIFER KRALY EY, SP 2013-MA-087 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 11.4 ft. from the side lot line. Located at 4700 Brookside Dr., Alexandria, 22312, on approx. 2.08 ac. of land zoned R-1. Mason District. Tax Map 72-1 ((6)) 41 and 41V9. 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 January 8, 2014; and

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

1. The applicants are the owners of the land.
2. In this case, the applicants bought the house with the detached garage where it is already.
3. As the photos show, it is a very attractive structure.
4. There is significant vegetation around it.
5. It does not seem like it would have any significant negative impact on anybody.
6. It is a little vague how the garage got to where it was without the proper paperwork having been done.
7. On a lot of this scale with this distance from the road and with the topography, the Board does not think that this is going to be a significant problem for anybody.
8. The driveway for this property is also closer to the side line anyway than the garage is.
9. Even though the garage is too close, it is sort of stepped back from the driveway.
10. The Board is not sure how this all happened.
11. It seems to be something that is not going to have any negative impact on the neighbors.
12. Also, the Board has determined that the applicable standards in the mistake section resolution have been satisfied.

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 detached garage as shown on the plat prepared by Dominion Surveyors, Inc., dated May 28, 2013, as revised through September 17, 2013, as submitted with this application and is not transferable to other land.
- 2. A building permit and final inspections for the accessory structure shall be diligently pursued and obtained within 180 days of final approval of this application or this special permit shall be null and void.

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. Hammack seconded the motion, which carried by a vote of 5-0. Mr. Beard and Mr. Byers were absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Lorraine A. Giovinazzo".

Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals