

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MOHAMMAD HAJIMOHAMMAD, TRUSTEE AND FLORA HAJIMOHAMMAD, TRUSTEE OF THE HAJIMOHAMMAD REVOCABLE TRUST, SP 2013-LE-062 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction of certain yard requirements due to error in building location to permit existing building to remain 29.5 ft. and 33 ft. from the front lot lines. Located at 5630 South Van Dorn St., Alexandria, 22310, on approx. 31,451 sq. ft. of land zoned C-6. Lee District. Tax Map 81-2 ((3)) 8A. (In association with SE 2013-LE-014.) (Admin. moved from 2/26/14.) (Admin. moved from 3/19/14 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 April 16, 2014; and

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

1. The applicants are the owners of the land.
2. It is very thin justification, based on a representation that a contractor was employed to enlarge the existing building.
3. The applicants satisfy the standard that requires that the non-compliance was done in good faith and through no fault of the property owner.
4. The Board finds that under Sect. B, the applicants satisfy the specific standards set forth under that section.

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 building as shown on the plat prepared by Tri-Tek Engineering, dated March 19, 2013, as revised through February 25, 2014 as submitted with this application and is not transferable to other land.
- 2. All applicable permits and final inspections shall be obtained for the existing building within 120 days of site plan approval. The applicants shall submit a site plan within 120 days of approval of SE 2013-LE-014. The applicants shall obtain site plan approval within eight months of the approval of SE 2013-LE-014. Extensions of up to 90 days may be granted by the Zoning Administrator if the applicants can demonstrate they have diligently pursued site plan approval. In the event that SE 2013-LE-014 is not approved, this special permit shall be null and void.
- 3. Within 120 days of site plan approval, the applicants shall remove the portion of the building that encroaches onto the adjacent property to the north zoned R-1. The applicants shall submit a site plan within 120 days of approval of SE 2013-LE-014. The applicants shall obtain site plan approval within eight months of the approval of SE 2013-LE-014. Extensions of up to 90 days may be granted by the Zoning Administrator if the applicants can demonstrate they have diligently pursued site plan approval. In the event that SE 2013-LE-014 is not approved, this special permit shall be null and void.

4. The applicants shall obtain the necessary approvals from the adjacent property owner to the north (Tax map 90-4 ((1)) 24) prior to the removal of the portion of the structure that encroaches onto that property.

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 5-1. Mr. Byers voted against the motion. Mr. Beard recused himself from the hearing.

A Copy Teste:

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Lorraine A. Giovinazzo, Deputy Clerk  
Board of Zoning Appeals