

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

EVAN DAVID WESSER AND AUBRY NOEL WESSER, SP 2013-PR-058 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 covered stoop to remain 27.4 ft. and stairs to remain 21.6 ft. from front lot line and to permit fence greater than 4.0 ft. in height to remain in front yard of a corner lot. Located at 2906 Rose Pl., Falls Church, 22042, on approx. 9,009 sq. ft. of land zoned R-4. Providence District. Tax Map 50-4 ((16)) 89. (Admin. moved from 10/30/13 for notices.) Ms. Theodore 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 15, 2014; and

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

1. The applicants are the owners of the property.
2. With respect to the existing covered stoop, the request to permit the minimum yard requirements based on error in building location, that is a fairly minor reduction that is being requested.
3. It appears that in the past, looking at the similar case history that is included in the staff report, the Board has approved a number of similar type requests in the surrounding area in the past.
4. The Board has no objections from adjacent neighbors or homeowners in the area here today or in any written communications.
5. This was done by the prior owner, so this noncompliance was done in good faith or through no fault of the property owner.
6. With respect to the fence, the owner has indicated that the fence will not exceed six feet in height and will meet the sight distance requirements of the Ordinance based on the information that they have submitted.
7. The Board has determined that the applicants are in compliance with the requirements of Sect. 8-914.

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 fence in the front yard and to permit covered stoop and stairs to remain as shown on the plat prepared by George M. O'Quinn, Land Surveyor, of Dominion Surveyors Inc., dated September 15, 2010, as revised through April 29, 2013.
2. All applicable permits and final inspections shall be obtained for the covered stoop and stairs within 180 days of approval of this application.

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 5-0. Mr. Hammack and Mr. Smith were absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Suzanne Frazier".

Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals