

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

MAC W. L. SELBE - TRUSTEE FOR THE SELBE FAMILY TRUST, VC 2013-DR-013 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit greater than 25 percent front yard coverage. Located at 1907 Kirby Rd., McLean, 22101 on approx. 20,759 sq. ft. of land zoned R-1. Dranesville District. Tax Map 41-1 ((1)) 45. 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 October 23, 2013; and

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

1. The applicant is the owner of the land.
2. In general, this is an unusual situation.
3. Kirby Road is a difficult road.
4. This is an old area.
5. There is no on-street parking.
6. There is no curb, gutter.
7. It has a shared driveway.
8. This situation is unusual in certain respects, in that the original builder had an approved building plan.
9. The configuration of the house with the garage on the left side of the house, as you face it, with the driveway on the right side of the house, in order to comply with VDOT standards, with the shared entrance was not caught by Fairfax County staff in their review, according to testimony of Mr. Miller.
10. The recognition that they might have too much front yard coverage was not caught until the house was so far in construction that the County decided not to do anything about it and allowed the house to be constructed.
11. Now the County comes back and would like to have part of the driveway removed, which would probably result in the applicant violating some other sort of ordinance about driving through the front yard to get to the garage.
12. That is an extraordinary situation or condition in the use and development of the subject property.
13. The reasons set forth in the written justification outlined in great detail the traffic and the use issues involved with this common entranceway.
14. It satisfies the other conditions set forth in the nine paragraphs or some subsections under the variance standards.
15. In particular, 2F that was addressed.

16. Also 3, that the condition or situation of the subject property or intended use of the subject property is not so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
17. Strict application of the Ordinance would produce undue hardship.
18. 5, the undue hardship is not shared generally by other properties in the zoning district.
19. 6, that the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property.
20. 7, that the authorization of the variance will not give substantial detriment to the adjacent property. Indeed, the adjacent property owner supports this.
21. It seems to be, in part, their conformance with VDOT standards that is what started this whole process in motion.
22. The character the zoning district will not be changed.
23. It is the Board's understanding, according to the testimony, that the front yard coverage was for an entirely different purpose than the use intended by this applicant.
24. The variance will be in harmony with the intended spirit and purpose of the ordinance and not contrary to the public interest.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

- B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
 8. That the character of the zoning district will not be changed by the granting of the variance.
 9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

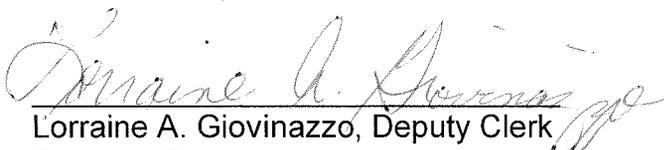
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This variance is approved for the front yard coverage as shown on the plat prepared by Dominion Surveyors, Inc., titled "Plat, Showing Improvements on the Property Located at #1907 Kirby Road," dated May 21, 2013, as revised through July 10, 2013, as submitted with this application, and is not transferable to other land.

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 including requirements for building permits.

Mr. Byers seconded the motion, which carried by a vote of 6-0. Mr. Hart recused himself from the hearing.

A Copy Teste:


Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals