

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ATA-UR R AKHTAR, SP 2015-LE-108 Appl. under Sect(s). 8-914 and 8-917 of the Zoning Ordinance to permit a modification to the limitation on the keeping of animals; and to permit a reduction in the minimum yard requirements based on an error in building location to permit an accessory storage structure (pigeon coop) to remain 3.2 ft. from a side lot line. Located at 5917 Erving St., Springfield, 22150, on approx. 8,447 sq. ft. of land zoned R-4. Lee District. Tax Map 80-3 ((2)) (16) 16. Mr. Byers 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 13, 2016; and

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

1. The applicant is the owner of the land.
2. The applicant has read, understands, and concurs with the proposed development conditions.
3. Criteria A through H have been met with regard to the mistake in building location.

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. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification 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 approval is granted to the applicant Ata-ur R. Akhtar, only, and is not transferable without further action of the Board, and is for the location indicated on the application 5917 Erving St., and is not transferable to other land.
2. This special permit is granted only for the keeping of animals (pigeons) and the location and height of the proposed pigeon coop on the plat titled "Plat Showing the Improvements on Lot 16, Block 16, Section Three Springfield," prepared by George M. O'Quinn, L. S., dated February 25, 2015, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit shall be made available to all departments of the County of Fairfax upon request.
4. This approval shall be for a maximum of 120 pigeons.
5. No more than ten (10) pigeons shall be released from the enclosure at one time.
6. All pigeon waste shall be thoroughly composted before use or distribution, or removed from the site.
7. The coop/aviary shall be cleaned and de-sanitized once a week.

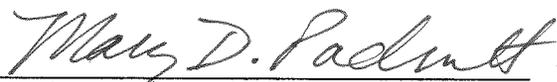
8. The existing vegetative screening and fence located in the side yard behind the coop shall be maintained
9. The applicant shall provide evergreen plantings along the rear property line suitable to provide year-round screening of the pigeon coop and aviary.
10. All feed for pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.
11. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the County.
12. All pigeons shall be confined to the loft, except for limited periods of necessary exercise, training, and competition; and at no time shall pigeons be allowed to perch or linger on the buildings or property of others.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use is established. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Hammack seconded the motion, which carried by a vote of 6-0. Mr. Smith was absent was absent from the meeting.

A Copy Teste:



Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals