

## COUNTY OF FAIRFAX, VIRGINIA

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

BRENDA CAFIERO/ANTHONY BLADEK, SP 2015-HM-130 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit a reduction in the minimum yard requirements based on an error in building location to permit an accessory structure (play house) to remain 0.0 ft. from a side lot line and 9.3 ft. from a rear lot line, and a second accessory structure (play house) to remain 7.6 ft. from a rear lot line. Located at 1715 Raleigh Hill Rd., Vienna, 22182, on approx. 28,757 sq. ft. of land zoned R-1 (Cluster). Hunter Mill District. Tax Map 18-4 ((13)) 48. Mr. Beard 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 applicants are the owners of the land.
2. Given the facts that are before the Board, we do not see how a complete approval can be granted, predicated upon the record, and what is physically there on the premises.
3. The encroachment that is being done by play house number one seems to be onerous to the adjoining property, notwithstanding the overhung situation, which physically encroaches on their air space and is technically on their property. Insofar as being on the lot line itself or minimally within the lot line causes the neighbors concern with their line of sight.
4. There can only be a recommendation of partial approval, to grant approval to play house number two, and deny play house number one.

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 in-part 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-IN-PART** for the second accessory structure (play house number two) and **DENIED-IN-PART** for the first accessory structure (play house number one), with the following development conditions:

- 1. This special permit is approved for the location of "#2 Play House" as shown on the plat titled, "Plat Showing the Improvements on, Lot 48, Section 3, Hunter Mill Estates," prepared by George M. O'Quinn, Land Surveyor, of Dominion Surveyors, Inc., dated April 17, 2015, as revised through September 10, 2015.

2. Within 90 days of the date of approval, the applicant shall remove or bring into compliance the accessory structure designated as "#1 Play House" on the special permit plat.

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. Hart 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