

## COUNTY OF FAIRFAX, VIRGINIA

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

PAUL CHRISTOU, SP 2015-MV-044 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction in minimum yard requirements based on error in building location to permit accessory structure (stone oven/grill) to remain 0.4 ft. from side lot line and 0.0 ft. Approved from rear lot line, roofed deck 1.4 ft. from rear lot line, an accessory structure (stone grill) 0.3 ft. from rear lot line, and a deck (patio) 0.0 ft. from a side lot line. Located at 1220 Tudor Pl., Alexandria, 22307, on approx. 17,614 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 93-4 ((4)) (2) 6. (Concurrent with VC 2015-MV-003). 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 February 3, 2016; and

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

1. The applicant is the owner of the land.
2. The Board has determined that criteria A through H have been met.
3. The applicant has read, understands, and concurs with the proposed development conditions.
4. This property was originally built in 1956. There has been a tremendous passage of time. There is an affidavit that essentially says the property has been in approximately the same condition for over 50 years.
5. When the Board makes judgments for mistakes in building location, the members have to take into account a number of factors. Those factors in many cases are balancing the absolute strict interpretation of the Zoning Ordinance with the rights and intent of the property owner. There was no deliberate attempt to circumvent the Zoning Ordinance. The applicant came into this home, saw there were a number of things that had already been done, and essentially improved the property.

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 special permit is granted only for the location of the accessory structures (stone oven/grill, pergola, deck (patio), and stone grill) as indicated on the plat titled, "Variance Plat, Showing Lot 6, Block 2, Marlan Heights (1220 Tudor Place)," by Ronald J. Keller, Land Surveyor, of RC Fields & Associated, Inc., dated October 3, 2012, as revised through August 27, 2014, and approved with this application, as qualified by these development conditions.

2. All applicable permits and final inspections shall be obtained for the accessory structures (stone oven/grill, pergola, deck (patio), and stone grill) within 180 days of the 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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

Mr. Hart seconded the motion, which carried by a vote of 4-0. Mr. Beard was not present for the vote. Mr. Smith and Mr. Hammack were absent from the meeting.

A Copy Teste:



Mary D. Padrutt, Deputy Clerk  
Board of Zoning Appeals