

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

INDIE HOLDINGS, LLC, SP 2015-MA-148 Appl. under Sect(s). 8-914 and 8-923 of the Zoning Ordinance to permit a reduction in minimum yard requirements based on errors in building locations to permit a deck to remain 18.2 ft. from one front lot line, an accessory structure (pond equipment) to remain 6.2 ft. from other front lot line, and a fence greater than 4.0 ft. in height to remain in the front yard of a corner lot. Located at 7800 Trammell Rd., Annandale, 22003, on approx. 22,733 sq. ft. of land zoned R-2. Mason District. Tax Map 59-4 ((9)) 61. 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 February 10, 2016; and

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

1. The applicant is the owner of the property.
2. There are a few minor discrepancies in the grading plan vs. the "as built", which allowed the applicant to request an error in building location, rather than a variance.
3. The improvements are not detrimental to any of the adjoining property owners.
4. The applicant satisfied subsections A through H of Sect. 8-914.
5. The violations were made without the knowledge of the applicant by a contractor that they relied upon.
6. The pool and pond equipment is not obvious from the sidewalk, has been screened, and does not have a negative impact on the surrounding area.
7. The applicant has read understands, and agrees with the proposed development conditions.

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 approved for the location of a wood fence six feet in height, the flagstone patio and the accessory structure (pond equipment) as shown on the plat entitled "Special Permit Plat, Lot 61, 1st addition to Holmes Run Heights," prepared by Patrick A. Eckert on August 19, 2014, as revised on November 12, 2015, 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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use 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. Hart seconded the motion, which carried by a vote of 5-0. Mr. Byers and Mr. Smith were absent from the meeting.

A Copy Teste:



Suzanne Frazier
Deputy Clerk to the Board of Zoning Appeals