

## COUNTY OF FAIRFAX, VIRGINIA

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

MARCOS A. ARAUS AND KATHERINE B. ARAUS, SP 2016-MV-031 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit a reduction in the minimum yard requirements based on error in building location to permit a dwelling to remain 7.7 ft. from a side lot line, a deck (patio) to remain 4.0 ft. from a side lot line, and an accessory structure to remain 12.0 ft. from a side lot line; and, to permit a reduction of certain yard requirements to allow construction of an addition 7.7 ft. from a side lot line. Located at 1130 Cameron Rd., Alexandria, 22308, on approx. 11,250 sq. ft. of land zoned R-2. Mt. Vernon District. Tax Map 102-2 ((12)) 39. Ms. Theodore 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 June 22, 2016; and

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

1. The applicants are the owners of the land.
2. The applicants have read, understand, and concur with the proposed development conditions.
3. The application meets all submission requirements set forth in Section 8-922.
4. There is a favorable Staff recommendation, and the Board adopts their rationale.
5. The Board has approved similar cases in the area with similar circumstances.
6. There have been no concerns raised in the hearing or with any written submissions.
7. A letter was provided by the adjacent, most directly impacted neighbor, which indicated the prior owners converted the carport into the existing garage. This supports the applicant's justification that the non-compliance was done in good faith.

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. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of all improvements located in error of the minimum side yard requirement, and for the addition as shown on the special permit plat, entitled "Special Permit Plat showing Lot 39 and Part (25') of Lot 38, Wellington Estates," prepared by Darryl Bowser, L.S., of RC Fields and Associates, Inc., dated March 1, 2016 and received March 23, 2016, consisting of one sheet as submitted with this application and is not transferable to other land.

3. Pursuant to Par. 4 of Sect. 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (1,706 square feet existing + 2,559 square feet (150%) = 4,265 square feet permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be generally consistent with the design of the architectural renderings as shown on Attachment 1 to these conditions.
5. The Applicant shall obtain all applicable building permits and pass inspections for the existing garage concurrent with the approved addition.

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, (30) months after the date of approval unless construction has commenced on the screened porch addition and has been diligently prosecuted. 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. Smith seconded the motion, which carried by a vote of 6-0. Chairman Ribble was not present for the vote.

A Copy Teste:

*Emily J. Armstrong*  
Emily J. Armstrong, Deputy Clerk  
Board of Zoning Appeals

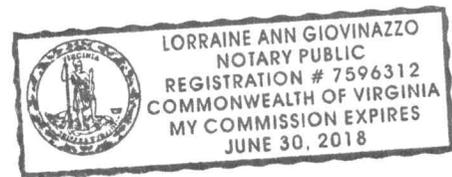
ACKNOWLEDGEMENT

County of Fairfax  
Commonwealth of Virginia

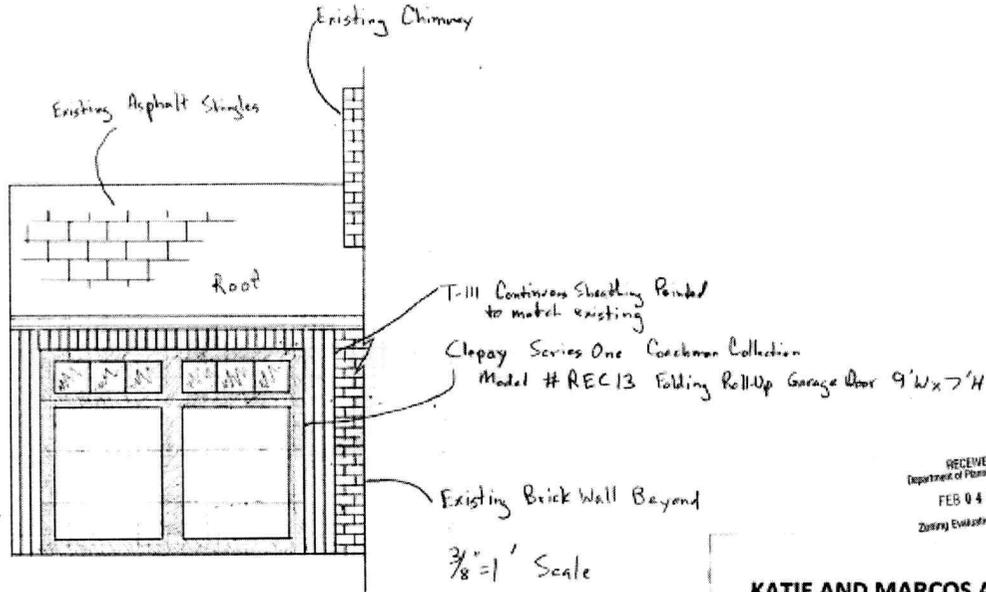
The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of  
June, 2016.

*Lorraine A. Giovinazzo*  
Notary Public

My commission expires: 6/30/18



**ATTACHMENT 1: Architectural Renderings for Proposed Addition  
Front Elevation**



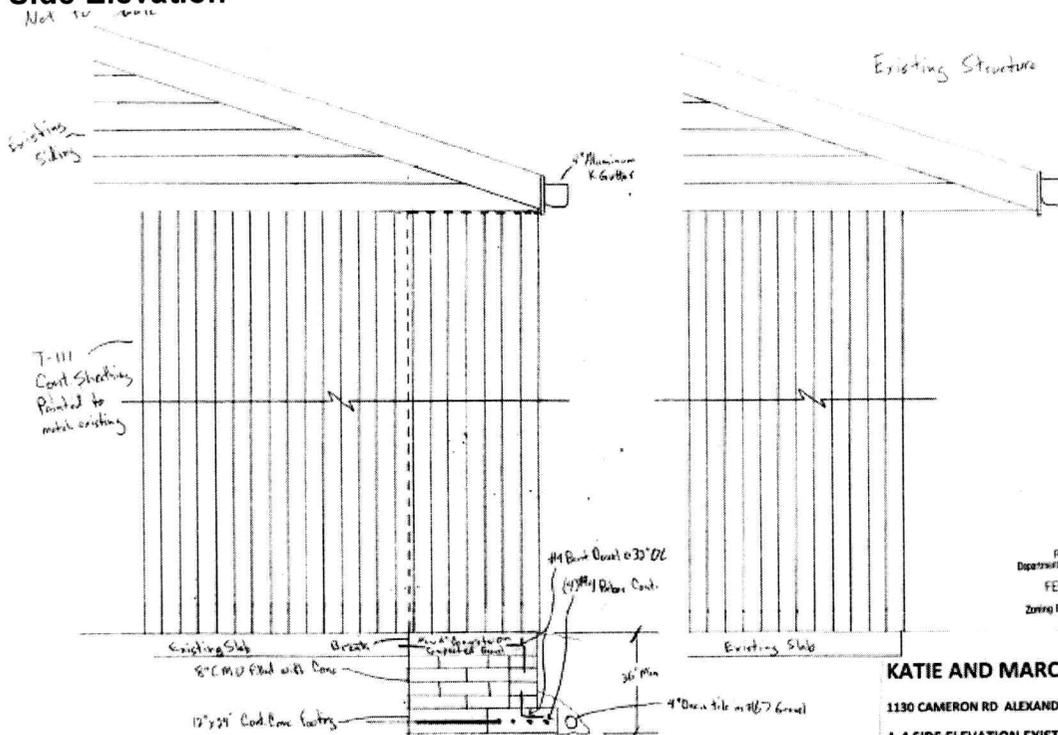
RECEIVED  
Department of Planning & Zoning  
FEB 04 2016  
Zoning Evaluation Division

**KATIE AND MARCOS ARAUS**

1130 CAMERON RD ALEXANDRIA Va. 22308

A-3 FRONT ELEVATION NEW

**Side Elevation**



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A-4 SIDE ELEVATION EXISTING AND NEW