

## COUNTY OF FAIRFAX, VIRGINIA

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

RANDY H. HADIJSKI, SP 2016-LE-029 Appl. under Sect. 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 storage structure to remain 2.3 ft. from a side lot line and 8.0 ft. from a rear lot line. Located at 4522 Apple Tree Dr., Alexandria, 22310, on approx. 14,565 sq. ft. of land zoned R-3. Lee District. Tax Map 82-3 ((13)) 48. Mr. Smith 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 applicant is the owner of the land.
2. The applicant has read, understands, and concurs with the proposed development conditions.
3. Noncompliance was done in good faith, as the applicant constructed a shed in place of a previously existing shed, and was unaware of the existing dimension requirements.
4. The reduction of the shed eliminates the need for a variance.
5. The length of the lot and the fact that the shed sits under tall poles for power lines makes the shed less visible.
6. The reduction removes the shed from the 20 foot span of the power lines, although it is still in the right-of-way for those lines.
7. There is already significant hardship in reducing the size of the shed, and reducing the height would add unreasonable hardship.

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 storage structure (shed) as indicated on the plat titled, "Special Permit Plat Showing Improvements on Lot 48, Section 2, Rose Hill," prepared by Thomas G. Lutke, L.S., dated March 16, 2016, as submitted with this application, and is not transferable to other land.
2. The applicant recognizes and acknowledges that the shed that is the subject of this special permit application encroaches into an existing 100-foot-wide Dominion high voltage transmission power line right-of-way easement. Accordingly, the applicant, successors or assigns, shall indemnify, keep and save harmless the County, its agents, officials, employees, volunteers, and the Board of Zoning Appeals against claims of injuries, death, damage to property, or other suits, liabilities, judgments, cost and expenses which may otherwise accrue against the county in consequence

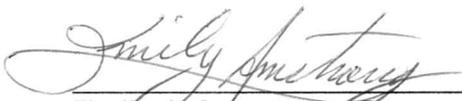
of the granting of this special permit. The applicant, successors or assigns, shall, at his or her own expense, appear, defend, and pay all charges of attorneys, and all costs, and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the county and/or the Board of Zoning Appeals in any such action, the Applicant shall, at his or her own expense, satisfy and discharge the same.

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.

Ms. Theodore seconded the motion, which carried by a vote of 5-1. Mr. Byers voted against the motion. Chairman Ribble was not present for the vote.

A Copy Teste:

  
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Emily J. Armstrong, Deputy Clerk  
Board of Zoning Appeals