

~ ~ ~ May 7, 2014, Scheduled case of:

9:00 A.M. THOMAS M. LINT, SP 2014-BR-006 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 additions to remain 9.2 ft. and 6.3 ft. from side lot line and accessory storage structure to remain 0.8 ft. from rear lot line and 0.9 ft. from side lot line. Located at 5112 Red Fox Dr., Annandale, 22003, on approx. 10,500 sq. ft. of land zoned R-3. Braddock District. Tax Map 69-4 ((6)) 8.

Chairman Ribble called the applicant to the podium.

The Chairman directed the clerk to administer the oath to the participants in the hearing, who swore or affirmed that their testimony would be the truth, and the public hearing was opened.

Thomas M. Lint, 5112 Red Fox Drive, Annandale, Virginia, reaffirmed the affidavit.

Erin M. Haley, Senior Staff Coordinator, made staff's presentation as contained in the staff report.

Mr. Lint presented the special permit request as outlined in the statement of justification submitted with the application. He said the shed had pre-existed the purchase of their home, so the shed had probably been in place in excess of 21 years. He said the previous owners had probably constructed it without benefit of a permit. The new construction had permits but the contractor made mistakes in measuring.

Chairman Ribble called for speakers.

Russell Ramirez, the applicant's agent, 6927 Barrett Road, Falls Church, Virginia, came forward to speak. He said they based their design on the already existing plat and did the measurements accordingly. Everything was square and ready to go, he said, and they did the measurements following all the setbacks. Mr. Ramirez said that when the wall check was required was when the problems started, but everything was done by then.

Chairman Ribble closed the public hearing.

Mr. Hammack moved to approve SP 2014-BR-006 for the reasons stated in the Resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

THOMAS M. LINT, SP 2014-BR-006 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 additions to remain 9.2 ft. and 6.3 ft. from side lot line and accessory storage structure to remain 0.8 ft. from rear lot line and 0.9 ft. from side lot line. Located at 5112 Red Fox Dr., Annandale, 22003, on approx. 10,500 sq. ft. of land zoned R-3. Braddock District. Tax Map 69-4 ((6)) 8. 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 May 7, 2014; and

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

1. The applicant is the owner of the land.
2. Based on the testimony of the applicant and the builder, and the written explanation, the Board thinks the applicant has satisfied Subsections A through H, under 8-914, to permit the reductions.

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 the addition and accessory storage structure (shed), as shown on the plat prepared titled, "Special Permit Plat on Lot 8, Section 1, Red Fox Forest," prepared by Prem K. Bhandari, Land Surveyor of AMA Engineers, LLC, dated October 17, 2013, as revised through February 5, 2014.
2. All applicable permits and final inspections shall be obtained for the addition and the shed.

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 (6) months after the date of approval unless the structures have been issued permits and inspected as outlined above. The Board of Zoning Appeals may grant additional time 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. Byers seconded the motion, which carried by a vote of 7-0.

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