

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SUKON KO, SP 2014-BR-029 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to the minimum yard requirements based on error in building location to permit additions to remain 16.9 ft. and 14.2 ft. from the rear lot line. Located at 4149 Elizabeth Ln, Annandale, 22003, on approx. 10,530 sq. ft. of land zoned R-2 (Cluster). Braddock District. Tax Map 58-4 ((21)) 15. (Decision deferred from 6/25/14 and 9/10/14.) Mr. Beard 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 September 24, 2014; and

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

1. The applicant is the owner of the property.
2. This is going to meet the relevant provisions of the code.
3. There have been issues cited about this gentleman being a general contractor.
4. There was an erroneous reading of the scale of the plat, which contributed to this.
5. The applicant has again stated under oath that this was done in good faith. This seems to be the underlying issue of this entire situation, whether this was done in good faith or not.
6. The homeowners association only became aware of this after it was posted by the County, and this is not visible from the street.
7. There are various determinations about how this might be remediated from as far as tearing it down to shortening it.
8. There is a conflict of what the applicant states could happen, insofar as lessening this. He contends that it cannot be done.
9. The last meeting, the homeowners association unhappily had somewhat agreed to a remediation of this by planting in the proximity of the addition.
10. This is something that is not going to make the neighbors happy, but the Board does not see that tearing this down accomplishes what should rightfully be done here.
11. The Board has to take the explanation about the structure as not being able to shorten it, because of the trusses in the ceiling.

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 as shown on the plat prepared titled, " Plat, Showing the Improvements on Lot 15, Section Four, Truro, " prepared by George M. O'Quinn, L.S., of Dominion Surveyors Inc., dated September 18, 2013.

2. All applicable permits and final inspections shall be obtained for the one-story addition and the deck with lattice within 180 days of the approval of this application.
3. Additional screening shall be provided and field located in consultation with the Urban Forester.
4. Storage of building materials in the backyard shall not be permitted.

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.

Ms. Theodore seconded the motion, which carried by a vote of 6-1. Mr. Hart voted against the motion.

A Copy Teste:



Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals