

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

RAYMUND M. TEMBREULL, SP 2014-PR-039 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction of the minimum yard requirements based on error in building location to permit addition to remain 11.4 ft. from rear lot line. Located at 9143 Santayana Dr., Fairfax, 22031, on approx. 10,502 sq. ft. of land zoned R-3. Providence District. Tax Map 58-2 ((10)) 37. 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 25, 2014; and

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

1. The applicant is the owner of the property.
2. As reflected in the staff report and as heard at the public hearing, the applicant purchased the home, and in planning some repairs to the sunroom, learned that there was not proper permitting for the sunroom addition.
3. The applicant is just trying to bring this addition into compliance.
4. The sunroom has been in its current location for the last 20 years as far as the Board can tell from records and plats.
5. The proposed reduction would allow continued use of the sunroom.
6. The structure is harmonious with the current existing home and the neighborhood, and would not have an adverse impact to adjoining property owners.
7. There are letters of support from an immediate neighbor and other surrounding neighbors.

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 37, Section Two, Mantua Hills," prepared by George M. O'Quinn, L.S., of Dominion Surveyors Inc., dated November 11, 2013, and as revised through January 6, 2014.
2. All applicable permits and final inspections shall be obtained for the addition and deck within 270 days of approval of this application, except as may otherwise be agreed to by the Zoning Administrator for good cause.

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.

Mr. Beard seconded the motion, which carried by a vote of 7-0.

A Copy Teste:

  
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Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals