

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JOYCE FAY NICHOLS, TR, SP 2016-PR-037 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit a reduction in certain yard requirements to allow the construction of an addition 29.8 ft. from a front lot line and 19.5 ft. from a side lot line; and, to permit a reduction in minimum yard requirements based on an error in building location to permit an accessory structure (child's playhouse and deck) to remain 3.4 ft. from a rear lot line. Located at 10005 Fairoaks Rd., Vienna 22181, on approx. 21,941 sq. ft. of land zoned R-1. Providence District. Tax Map 37-4 ((3)) 19. Mr. Byers 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 July 13, 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. The home was built in 1959, and the applicant purchased it in 1982. The playhouse itself was built in the 1980s by the applicant's deceased husband, who was not aware of the setback requirements.
4. There is no plumbing or electricity in the playhouse.
5. There have been no complaints.
6. The garage is similar to one built on Lot 18 and is part of a larger construction project.
7. It is harmonious with the surrounding properties and the Zoning Ordinance.

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 addition, and for the location and size of all improvements located in error of the minimum rear yard requirement, as shown on the plat entitled "Special Permit/Variance Plat Showing Improvements on Lot 19 of Oak Valley Estates," prepared by Thomas G. Lutke and dated January 3, 2016, as submitted with this application and is not transferable to other land.

3. Pursuant to Paragraph 4 of Section 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 [3,503 square feet (existing) + 5,254.5 square feet (150%) = 8,757.5 square feet maximum permitted on lot] regardless of whether such addition complies with the minimum yard requirement or is the subject of subsequent yard reduction special permit Notwithstanding the definition of gross floor area as set forth in the Zoning 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 an attached garage Subsequent additions that meet minimum yard shall be permitted without an amendment to this special permit.
4. The addition shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
5. The applicant shall obtain all applicable building permits and pass inspections, including final inspection, for the proposed garage addition.

This approval, contingent upon the above-noted development conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Section 8-015 of the Zoning Ordinance, the special permit shall automatically expire, without notice, 30 months after the date of approval unless construction has commenced on the garage addition and has been diligently pursued The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of the 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. Hart seconded the motion, which carried by a vote of 5-0 Ms. Theodore and Mr. Hammack were absent from the meeting.

A Copy Teste:



Emily J. Armstrong, Deputy Clerk
Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 20 day of

July, 2016.



Notary Public

My commission expires: 9-30-2017

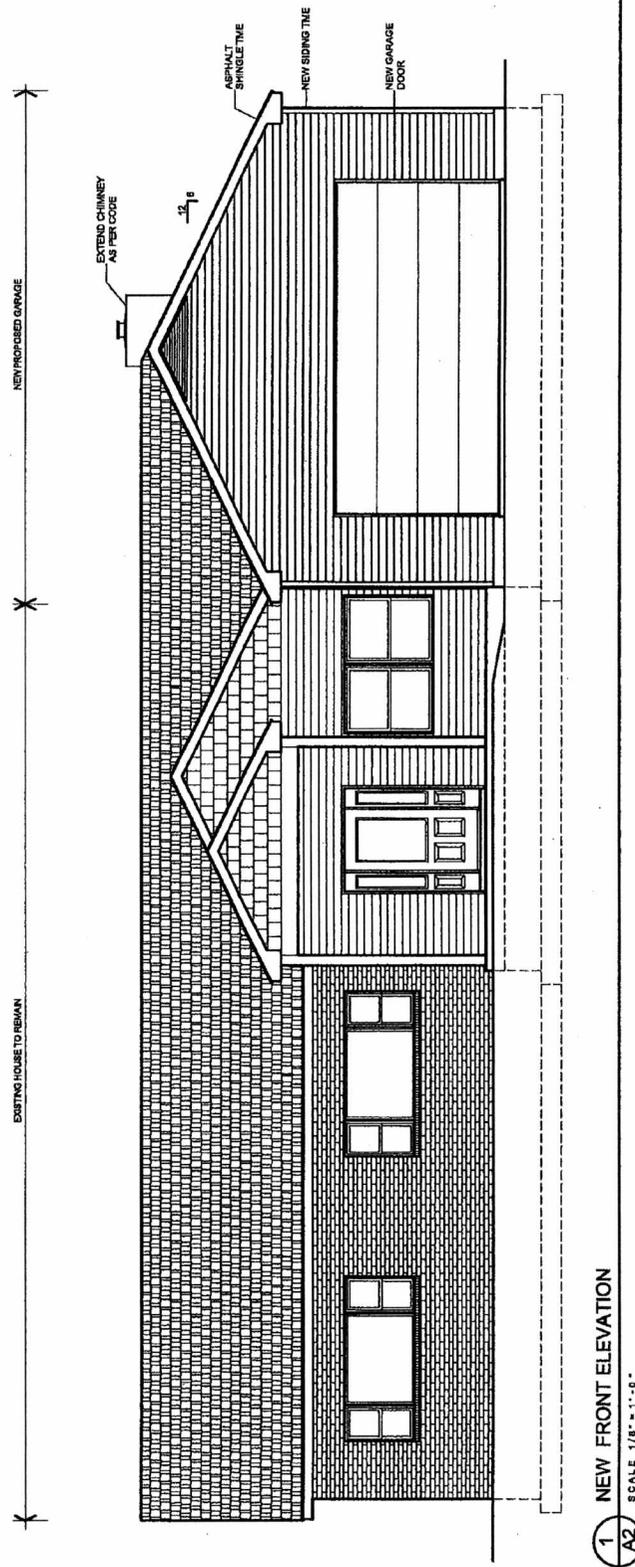


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Zoning Evaluation Division

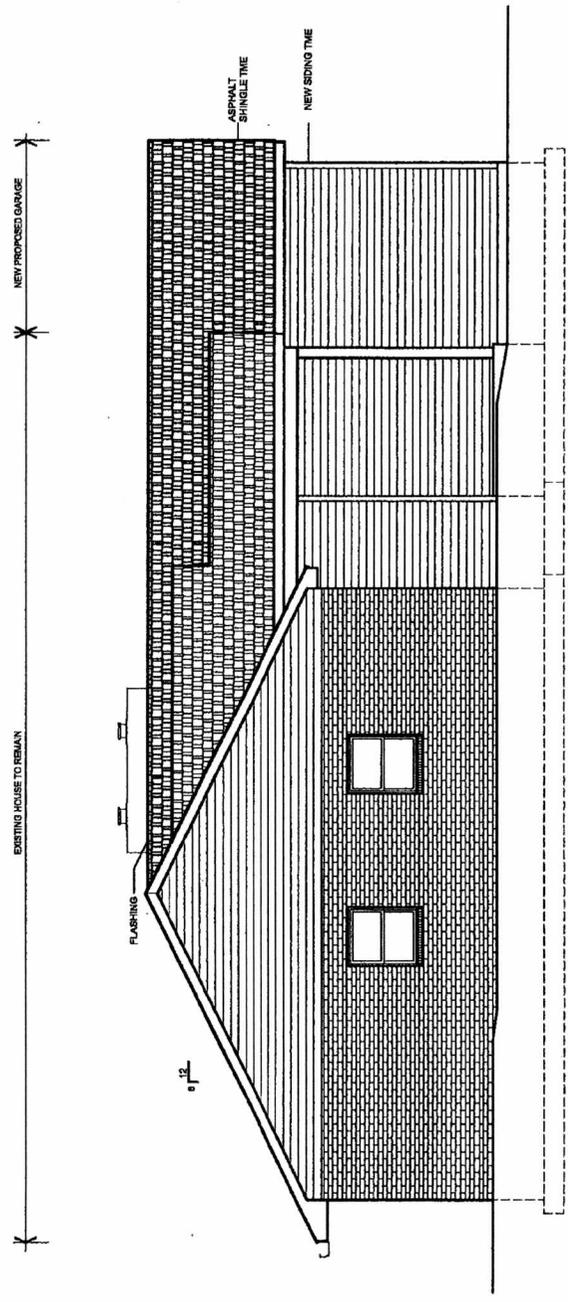
ATTACHMENT 1



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1
A4
NEW LEFT ELEVATION
SCALE 1/8" = 1'-0"