

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

WEIQING GU, SP 2014-SP-134 Appl. under Sect(s). 8-918, 8-914 and 8-923 of the Zoning Ordinance to permit an accessory dwelling unit, to permit reduction to minimum yard requirement based on error in building location to permit accessory storage structure to remain 1.7 ft. from side lot line and fence greater than 4 ft. in height to remain in the front yard. Located at 7938 Jansen Dr., Springfield, 22152, on approx. 10,747 sq. ft. of land zoned R-3. Springfield District. Tax Map 89-2 ((4)) (5) 18. 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 September 17, 2014; and

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

1. The applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 10,747 square feet.
4. Under 8-918, the applicant's parents, over the age of 55, would reside in the accessory dwelling unit.
5. As reflected in the staff report, and as the Board has heard at the hearing, there is adequate parking available in the driveway for both the residents of the home, and the residents of the proposed accessory dwelling unit.
6. The proposed conditions would address the treatment of the accessory dwelling unit, including limiting the approval and treatment of the unit if the home is sold, the emergency egress window in the bedroom, and other associated issues with the unit.
7. Staff is recommending approval of the special permit for the accessory dwelling unit with the adoption of the proposed development conditions, and the Board adopts their rationale.
8. With respect to the fence greater than four feet in the front yard, under section 8-923, as reflected in the staff report and discussed at the hearing, this was in place when the applicant purchased the home, and through no fault of the current homeowner. She purchased the property as is. Because there are just several of the stone pillars that are slightly over four feet, they will remain as is without change.
9. With respect to the shed under 8-914, the mistake section, this is a situation where the applicant purchased the home with the shed in its current location. This is a situation where the noncompliance was done in good faith, or through no fault of the property owner.

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 final inspection. 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 height and location of the shed and fence as shown on the plat entitled "Special Permit Plat, Lot 18, Block 5, Section 2, West Springfield," prepared by Patrick A. Eckert of Alterra Surveys, Inc., on August 6, 2013, and as revised through April 19, 2014, as submitted with this application and is not transferable to other land.
3. This approval is granted to the applicant only, Weiqing Gu, and is not transferable without further action of this Board, and is for the location indicated on the application, 7938 Jansen Drive, and is not transferable to other land.
4. A copy of this special permit **SHALL BE POSTED IN A CONSPICUOUS PLACE IN THE ACCESSORY DWELLING UNIT** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. The accessory dwelling unit shall contain a maximum of 696 square feet (15.4 percent of the total gross floor area), and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
8. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit and may be extended for five-year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
9. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
10. All parking shall be provided on site as shown on the special permit plat.

- 11. A point of egress, which meets emergency escape and rescue openings requirements of the 2009 Virginia Residential Building Code, shall be installed in the sleeping room, as labeled as being "Bedroom" on the floor plan in Attachment 1. This egress shall be installed within 90 days of the approval of the special permit and before the accessory dwelling unit is occupied.

This approval, contingent on 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 use has been established as outlined above. 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 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. Smith seconded the motion, which carried by a vote of 6-0. Chairman Ribble was not present for the vote

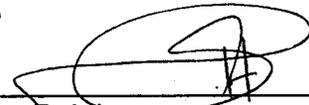
A Copy Teste:

Lorraine A. Giovinazzo
 Lorraine A. Giovinazzo, Deputy Clerk
 Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax
 Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 23 day of September, 2014.



 Notary Public

My commission expires: 07-31-2016

Embossed Hereon Is My
 Commonwealth Of Virginia Notary Public Seal
 My Commission Expires July 31, 2016
 HOMAIRA AMIN

Basement and Garage-Lowest level of 7938 Jansen Dr. Springfield, VA

RECEIVED
Department of Planning & Zoning

AUG 13 2013

Zoning Evaluation Division

