

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

HENRY S. ENSHER, SP 2014-DR-136 Appl. under Sect(s). 8-918 and 8-914 of the Zoning Ordinance to permit an accessory dwelling unit and reduction of minimum yard requirements based on error in building location to permit addition to remain 29.9 ft. from front lot line. Located at 7010 Tyndale St., McLean, 22101, on approx. 13,249 sq. ft. of land zoned R-3. Dranesville District. Tax Map 30-3 ((13)) 39. 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 October 1, 2014; and

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

1. The owner of the property is the applicant.
2. This complies with the criteria of standards B through H below.
3. Staff recommends approval of the accessory dwelling unit.

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 for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Henry S. Ensher, and is not transferable without further action of this Board, and is for the location indicated on the application, 7010 Tyndale Street, and is not transferable to other land.
3. 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.

4. 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.
5. The accessory dwelling unit shall contain a maximum of 464 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
6. 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.
7. All applicable permits and final inspections shall be obtained for the kitchen components in the accessory dwelling unit.
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.

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

A Copy Teste:

Suzanne Frazier
Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals

ACKNOWLEDGEMENT

COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 7 day of October, 2014.

Robert Wyatt Harrison
Notary Public

My commission expires: 9-30-2017



RICH MARKUS ARCHITECTS
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WASHINGTON DC 20007
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ENSHER RESIDENCE
7010 TYNDALE STREET
MCLEAN, VA 22101

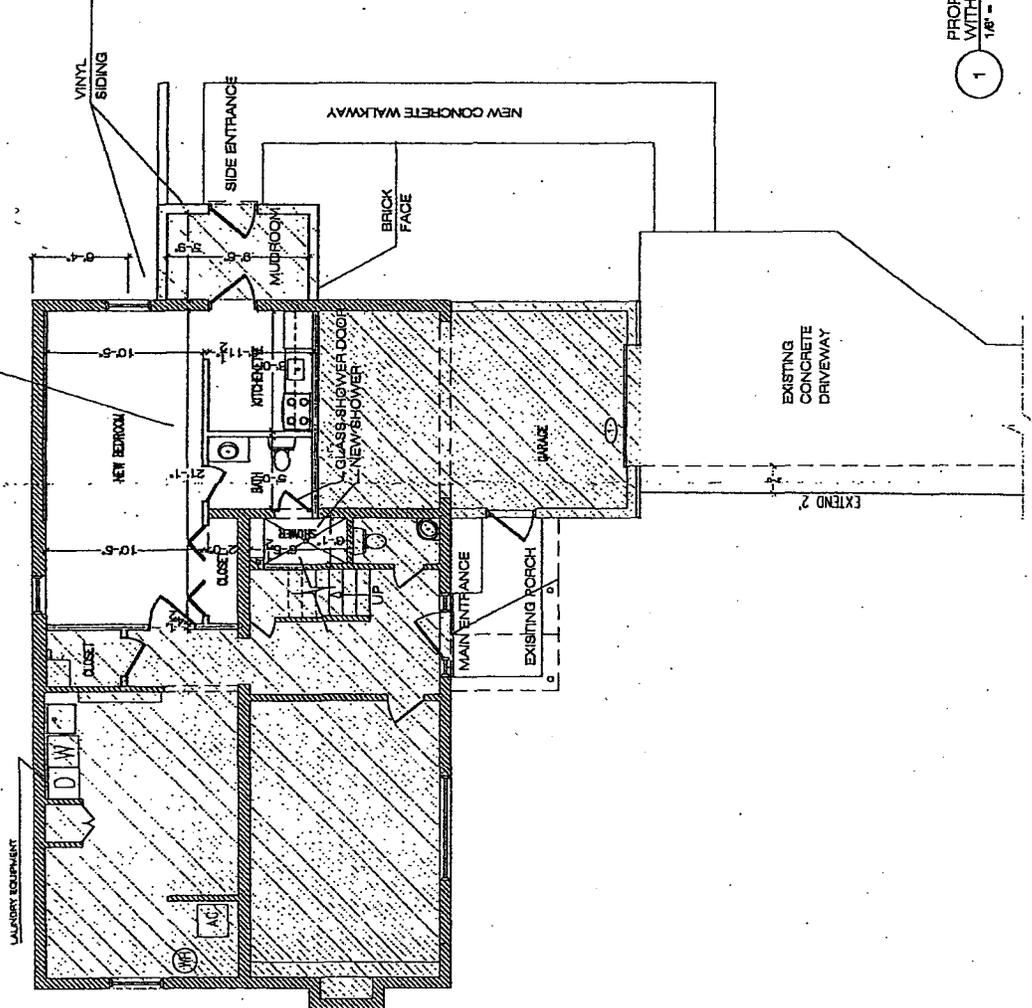
PROPOSED FLOOR PLAN
SHOWING ACCESSORY
DWELLING UNIT

AS SHOWN
NOV 28, 2013

A200

DRAWING NUMBER

PROPOSED ACCESSORY DWELLING UNIT



RECEIVED
Department of Planning & Zoning
DEC 11, 2013
Zoning Evaluation Division

1
PROPOSED FLOOR PLAN
WITH ACCESSORY DWELLING UNIT
1/8" = 1'-0"

EXISTING
NEW