

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

NICHOLAS SKIRPAN & SILVIA SKIRPAN, SP 2014-BR-206 Appl. under Sect(s). 8-918 of the Zoning Ordinance to permit an accessory dwelling unit. Located at 5216 Capon Hill Pl., Burke, 22015, on approx. 10,074 sq. ft. of land zoned R-3 (Cluster). Braddock District. Tax Map 69-4 ((17)) 21. 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 January 7, 2015; and

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

1. The applicants are the owners of the land.
2. The present zoning is R-3 (Cluster).
3. The area of the lot is 10,074 square feet.
4. When the applicant purchased the property, they were not aware that there was not a permit for what they would like to use as an accessory dwelling for an elderly family member.
5. Once they received the notice of violation, they have diligently pursued a special permit for that use.
6. The Board heard concerns raised at the meeting with respect to neighborhood covenants. While the Board appreciated those concerns, that is not something that is factored into the decision the Board is considering here under the Zoning Ordinance.
7. Staff is recommending approval, and the Board would adopt their rationale.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. These conditions shall be recorded by the applicants 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 approval is granted to the applicants only, Nicholas Skirpan & Silvia Skirpan, and is not transferable without further action of this Board, and is for the location indicated on the application, 5216 Capon Hill Place, 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 689 square feet (13.5% 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.
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. 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 Sect. 8-012 of the Zoning Ordinance.
8. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory dwelling unit 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.
9. The applicant shall obtain all applicable building permits for the kitchen in the accessory dwelling unit within 30 days of approval of the special permit. The applicant shall obtain all applicable final inspections for the kitchen in the accessory dwelling unit within 90 days of approval of the special permit. All applicable permits and final inspections shall be obtained prior to the occupancy of the accessory dwelling unit.
10. All parking shall be provided on site.

This approval, contingent on the above-noted conditions, shall not relieve the applicants 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 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. Byers seconded the motion, which carried by a vote of 6-0. Mr. Smith was absent from the meeting.

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 13 day of

January, 2015.

Robert Wyatt Harrison
Notary Public

My commission expires: 9-30-2017



