



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

February 17, 2015

John Long, Esquire
5240 Lyngate Court
Burke, Virginia 22015

Re: Special Permit Application SP 2014-SP-232
Ronald S. Federici

Dear Mr. Long:

At its February 4, 2015 meeting, the Board of Zoning Appeals took action to **APPROVE** the above-referenced application. A copy of the Resolution is attached.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits such as Building Permits, Residential Use Permits and Non-Residential Use Permits. Information concerning building permits may be obtained by calling 703-222-0801.

Sincerely,

Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals

Enclosure: As stated

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

RONALD S. FEDERICI, SP 2014-SP-232 Appl. under Sect(s). 8-918 and 8-914 of the Zoning Ordinance to permit an accessory dwelling unit and reduction in minimum yard requirements based on error in building location to permit accessory storage structure to remain 9.2 ft. from a side lot line and accessory structure to remain 15.0 ft. from a side lot line. Located at 13310 Compton Rd., Clifton, 20124, on approx. 5.62 ac. of land zoned R-C and WS. Springfield District. Tax Map 75-1 ((1)) 24. Mr. Hammack 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 February 4, 2015; and

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

1. The applicant is the owner of the property.
2. The property was the subject of final plat approval prior to July 26, 1982.
3. The property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
4. Such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
5. The resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety, and welfare of the area.
6. The record shows that this is one of those unfortunate cases, but Fairfax County issued a building permit in 1989 for the construction of the principal dwelling when the original principal dwelling, now being called an accessory dwelling unit, was there. They set in motion the facts of which they now complain as far as the Board could see.
7. The record shows, it was in the staff report, there was a note on the building permit that the original dwelling was to be converted. The County did not follow up. They did not do anything for eight years and not much more until 2002. They did little to enforce the ordinance. In 2003, 14 years after that building permit had been issued, the applicant bought the property and they have done not too much to enforce the Ordinance since then. The Zoning Department has not even informed the Finance Department that this is no longer supposedly a dwelling unit, and has allowed it to be taxed as a dwelling unit for over 25 years.
8. The accessory dwelling unit is on a 5.62 acre parcel and is one of the remaining rural or undeveloped parts of the county.

9. The Board have approved and, under the Statute, has the authority to approve accessory dwelling units, individual or separate units, on parcels over two acres, which the Board has done in the past.
10. The Board understands that the staff has the qualifications of the applicant to satisfy the individual subsections of the Ordinance with respect to an ADU, and the Board has approved other ADUs in the past based on that. There have been a number of them where people have not been living in them and were going to move in contingent upon our approval. Under the circumstances, this particular ADU is consistent with other applications the Board has granted from time to time. It is on a large parcel and does not impact any other adjacent properties.
11. The proposed development conditions are adequate to protect against using the accessory dwelling unit in some manner that is not permitted under the Ordinance. There are ADUs throughout the county and they all have the same particular situation or condition attached.

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 accessory dwelling unit, the accessory structure (gazebo), and accessory storage structure (shed B) as shown on the special permit plat, titled "Plat For Special Permit The Land Of Ronald S. Federici" prepared by Digiulian Associates, P.C., dated revised September 19, 2014.
2. The approval for the accessory dwelling unit is granted to the applicant only, Ronald S. Federici, and is not transferable without further action of the Board, and is for the location indicated on the application, 13310 Compton Road, Clifton, and is not transferable to other land.
3. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
4. A copy of this special permit shall be posted in a conspicuous place within the accessory dwelling unit and be made available to all departments of the County of Fairfax.
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.

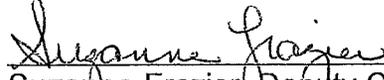
6. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice.
7. The accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
8. The accessory dwelling unit shall be approved for a period 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 Sect. 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 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.
10. The accessory dwelling unit may contain no more than one bedroom without further approval of the Board. An exception may be made for a caregiver, if applicable, without further approval of the Board.
11. The principal dwelling unit on the property shall not be used for any business purposes without further approval of the Board.
12. The tar paper on the shed shall be covered with siding and the exposed wood painted within twelve months.
13. Three large shrubs or two small trees shall be installed between the gazebo and the southern property line within 12 months of special permit approval.
14. Two evergreen trees, such as Green Giant arborvitae, one off the northwest corner of Shed B and one on the northeast side of the path from the barn to Shed B, shall be installed within 12 months of special permit approval.

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, twelve (12) months after the date of approval unless the use has been established as noted above. The Board of Zoning Appeals may grant additional time to obtain 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. Beard seconded the motion, which carried by a vote of 6-0. Mr. Smith was absent from the meeting.

A Copy Teste:



Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals