

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

KENNETH FAGAN, SP 2016-LE-062 Appl. under Sect(s). 8-914 and 8-923 of the Zoning Ordinance to permit a reduction in minimum yard requirements based on an error in building location to permit a dwelling to remain 5.2 ft. from a side lot line, and a fence greater than 4.0 ft. in height to remain in a front yard. Located at 6132 Valley View Dr., Alexandria, 22310, on approx. 19,994 sq. ft. of land zoned R-3, HC. Lee District. Tax Map 81-3 ((4)) 12A. 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 October 19, 2016; 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 20,000 square feet.
4. The fence does not pose a sight distance problem. There is no street frontage due to the shared driveway, and the fence is located adjacent to the driveway. The fence is older and not in good condition, but is covered with vegetation and foliage. Several trees are split on either side of the fence.
5. Staff recommends approval with respect to the retention of the fence, and the Board adopts their rationale.
6. The error in building location is related to the addition. The addition was built by a prior owner in the mid-1970s. The applicant is requesting approval of this error in building to allow for further external improvements to the home.
7. The applicant has read, understands, and concurs with the proposed development conditions as modified.

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 granted for the error in building location for the residence and the fence in the front yard as shown on the plat titled "Plat Showing the Improvements on the Property Located at #6132 Valley View Drive," prepared by George M. O'Quinn, L.S., of Dominion Surveyors, Inc., dated April 1, 2016, last revised May 24, 2016 and received May 27, 2016, consisting of one sheet and approved with this application, as qualified by these development conditions.
2. A building permit shall be obtained and final inspection passed for the retaining wall within six months of approval.

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

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

A Copy Teste:

A handwritten signature in cursive script, reading "Mary D. Padruitt". The signature is written in black ink and is positioned above a horizontal line.

Mary D. Padruitt, Deputy Clerk
Board of Zoning Appeals