

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday, January 11, 2023. The following Board Members were present: Chairman John F. Ribble III; Vice Chairman James R. Hart; Thomas W. Smith III; Rebeccah Ballo; Daniel Aminoff; and Karen L. Day. Donte Tanner was absent from the meeting.

Chairman Ribble called the meeting to order at 9:06 a.m. He asked if there were any Board Matters to bring before the Board.

Nomination of Officers

Mr. Smith moved to nominate the following slate of officers for 2023; John Ribble, III, Chairman; James Hart, Vice-Chairman; Karen Day, Secretary. The motion was seconded by Mr. Tanner and carried by a vote of 7-0.

Nomination of Clerk

Mr. Smith moved to nominate Keisha Strand as the clerk to the Board of Zoning Appeals for 2023. The motion was seconded by Mr. Tanner and carried by a vote of 7-0.

As there were no other Board Matters, Chairman Ribble then discussed the policies and procedures of the Board of Zoning Appeals. Chairman Ribble called for the first scheduled case.

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~ ~ ~ January 25, 2023, Scheduled case of:

9:00 A.M. **Ying Liu and Jian Zhou, VC-2022-DR-00018** to permit front yard area paved for parking exceeding 30 percent. Located at 6817 Churchill Rd., McLean, 22101 on approx. 11,250 sq. ft. of land zoned R-3. Dranesville District. Tax Map 30-2 ((4)) (B) 8.

Chairman Ribble noted that variance application VC-2022-DR-00018 had been administratively moved to March 29, 2023.

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~ ~ ~ January 11, 2023, Scheduled case of:

Bogle Telegraph Road Associates L.P., A 2019-LE-021 Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that the appellant has allowed 9 sea containers to be located on the property, including one located in the minimum required front yard, without site plan approval; has allowed the construction of a 600 square foot office structure without building permits or site plan approval; has allowed the conversion of 1800 square feet of an accessory structure (lumber shed) to an office/warehouse without building permits or site plan approval; and has allowed the construction of a 400 square foot roof overhang without building permits, all in violation of Zoning Ordinance provisions. Located at 6404 Telegraph Road, Alexandria, VA 22310, on approx. 67,954 sq. ft. of land zoned C-8, in Lee District Tax Map 82-3 ((4)) 2B. **Bogle Telegraph Road Associates L.P., A 2019-LE-021** Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that the appellant has allowed 9 sea containers to be located on the property, including one located in the minimum required front yard, without site plan approval; has allowed the construction of a 600 square foot office structure without building permits or site plan approval; has allowed the conversion of 1800 square feet of an accessory structure (lumber shed) to an office/warehouse without building permits or site plan approval; and has allowed the construction of a 400 square foot roof overhang without building permits, all in violation of Zoning Ordinance provisions. Located at 6404 Telegraph Road, Alexandria, VA 22310, on approx. 67,954 sq. ft. of land zoned C-8, in

Lee District Tax Map 82-3 ((4)) 2B. (Admin. moved from 3/4/2020 at appl. req, and 6/3/2020 due to meeting cancellation for incorrect ads.) (Deferred from 7/8/2020 at staff's req.) (Continued from 10/28/2020, 4/7/2021, 6/30/2021, 10/27/21, 6/8/2022, and 9/28/2022). – **REQUEST TO CONTINUE**

The participants in the discussion were as follows:

- Cathy Belgin, Deputy Zoning Administrator
- William B. Lawson, Jr., Agent for the Applicant

Ms. Belgin and Mr. Lawson gave a status update on the case and the request for continuance. Mr. Aminoff moved to continue A 2019-LE-021 to May 10, 2023, at 9:00 a.m. Mr. Smith seconded the motion, which carried by a vote of 6-0-1. Mr. Hart recused himself from the hearing.

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~ ~ ~ January 11, 2023, Scheduled case of:

Huda E. Abdulkader, SP 2022-SP-00028 to permit a home day care facility. Located at 8125 Cliffforest Dr., Springfield, 22153 on approx. 3,207 square feet of land zoned R-5. Springfield District. Tax Map 98-2 ((16)) 52A. (Decision deferred from 11/2/2022)

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Sunny Yang, Senior Staff Coordinator
- Tesay Yusuf, Agent for the Applicant

After the hearing where public testimony was presented by Brent Krasner, Sunny Yang, and Ms. Yusuf, Mr. Aminoff moved to deny SP 2022-SP-00028 for the reasons stated in the Resolution. Ms. Ballo seconded the motion, which carried by a vote of 7-0. Mr. Hart moved that the one-year limitation on the resubmission of a similar application be waived, which was seconded by Mr. Smith. The motion carried by a vote of 7-0.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Huda E. Abdulkader, SP 2022-SP-00028 to permit a home day care facility. Located at 8125 Cliffforest Dr., Springfield, 22153 on approx. 3,207 square feet of land zoned R-5. Springfield District. Tax Map 98-2 ((16)) 52A. Mr. Aminoff 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 November 2, 2022; 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-5.
3. The area of the lot is 3,207 square feet.

WHEREAS, the Board has made the following conclusions of law:

1. That the intensity that is proposed is over capacity for a townhouse community with limited parking and the applicant 's and employee's parked vehicles creates a challenging parking situation.
2. That the applicant failed to produce testimony indicating compliance with the general and additional standards of special permit uses as set forth in section 4102.1.F2 and 4102.7.I of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **DENIED**:

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

Mr. Hart then moved that the one-year limitation on the resubmission of a similar application be waived, Mr. Smith seconded the motion, which carried by a vote of 7-0.

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~ ~ ~ January 11, 2023, Scheduled case of:

Bernhard A. Hoffmann, SP-2022-PR-00135 to permit a reduction of setback requirements to permit an addition (screened porch) 25.3 ft. from the front lot line adjacent to Adams Lane and a roofed deck (covered front porch) 22.9 ft. from the front lot line adjacent to Adams Lane. Located at 2908 Stuart Dr., Falls Church, 22042 on approx. 14,808 sq. ft. of land zoned R-4 and HC (pt.). Providence District. Tax Map 50-3 ((15)) 79.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Bernhard A. Hoffmann, Applicant

After the hearing where testimony was presented by Philip Isaiah, Brent Krasner, and Mr. Hoffmann, and there being no public speakers for this case, Mr. Tanner moved to approve SP-2022-PR-00135 for the reasons stated in the Resolution. Mr. Aminoff seconded the motion, which carried by a vote of 7-0.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Bernhard A. Hoffmann, SP-2022-PR-00135 to permit a reduction of setback requirements to permit an addition (screened porch) 25.3 ft. from the front lot line adjacent to Adams Lane and a roofed deck (covered front porch) 22.9 ft. from the front lot line adjacent to Adams Lane. Located at 2908 Stuart Dr., Falls Church, 22042 on approx. 14,808 sq. ft. of land zoned R-4 and HC (pt.). Providence District. Tax Map 50-3 ((15)) 79. Mr. Tanner 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 11, 2023; and

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

4. The applicant is the owner of the land.
5. The present zoning is R-4 and HC in part.
6. The area of the lot is 14,808 square feet.

7. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the standards for the Reduction of Setback Requirements as contained in Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the Board has determined that:

1. The application meets all the submission requirements set forth in Sect. 8101.3
2. A. The resulting gross floor area of the addition to the existing principal structure is not greater than 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. If a portion of the single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction will be removed;

B. The resulting gross floor area of the existing accessory structure and any addition to it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
3. The proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development.
4. The proposal does not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
5. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions, as modified at the hearing:

1. These conditions must be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Development.
2. This special permit is approved for the location of the screened porch addition and covered front porch as shown on the special permit plat, entitled "Plat, Showing the Improvements on Lot 79 Fenwick Park, Fairfax County, Virginia, Providence District," prepared by Dominion Surveyors Inc. dated August 4, 2022, as submitted with this application and is not transferable to other land.
3. Pursuant to Par. 6 of Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (3,239 square feet existing + 4,859 square feet (150%) = 8,098 square feet permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single-family dwelling for the purpose of this paragraph will be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements will be permitted without an amendment to this special permit.
4. The addition must be generally consistent with the architectural elevations as shown on Attachment 1 to these conditions.
5. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments, or other encumbrances to

title affecting the subject property, shown or not shown, on the approved special permit plat, as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.

6. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will automatically expire, without notice, 30 months after the date of approval unless construction has commenced on the screened porch addition and/or covered front porch and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction 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.
7. The fence adjacent to the front lot line must be relocated outside of the sight distance triangle within 90 days of approval of this special permit application.

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

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

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~ ~ ~ January 11, 2023, Scheduled case of:

Kristine Estioko and Nicholas J. Bader, SP-2021-SU-00135 to permit a reduction in setback requirements to permit an addition 21.1 ft. from the rear lot line. Located at 13512 Oak Ivy Ln., Fairfax, 22033 on approx. 12,920 sq. ft. of land zoned R-2 (Cluster) and WS. Sully District. Tax Map 35-3 ((10)) 130.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Nicholas Bader, Applicant

After the hearing where testimony was presented by Kevin McMahan, Brent Krasner, and Mr. Bader, and there being no public speakers for this case, Mr. Hart moved to approve SP-2021-SU-00135 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 7-0.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Kristine Estioko and Nicholas J. Bader, SP-2021-SU-00135 to permit a reduction in setback requirements to permit an addition 21.1 ft. from the rear lot line. Located at 13512 Oak Ivy Ln., Fairfax, 22033 on approx. 12,920 sq. ft. of land zoned R-2 (Cluster) and WS. Sully District. Tax Map 35-3 ((10)) 130. Mr. Hart 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 11, 2023; 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-2 (Cluster) and WS.
3. The area of the lot is 12,920 square feet.
4. The lot is a trapezoid shape, where almost any addition is going to run afoul of the rear setback line.
5. The addition is modest, at only 6 feet deep.
6. There will be no impact on the neighborhood.
7. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the standards for the Reduction of Setback Requirements as contained in Sect. 5100.2.D(11)(e) of the Zoning Ordinance, the Board has determined that:

1. The application meets all the submission requirements set forth in Sect. 8101.3
2. A. The resulting gross floor area of the addition to the existing principal structure is not greater than 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. If a portion of the single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction will be removed;

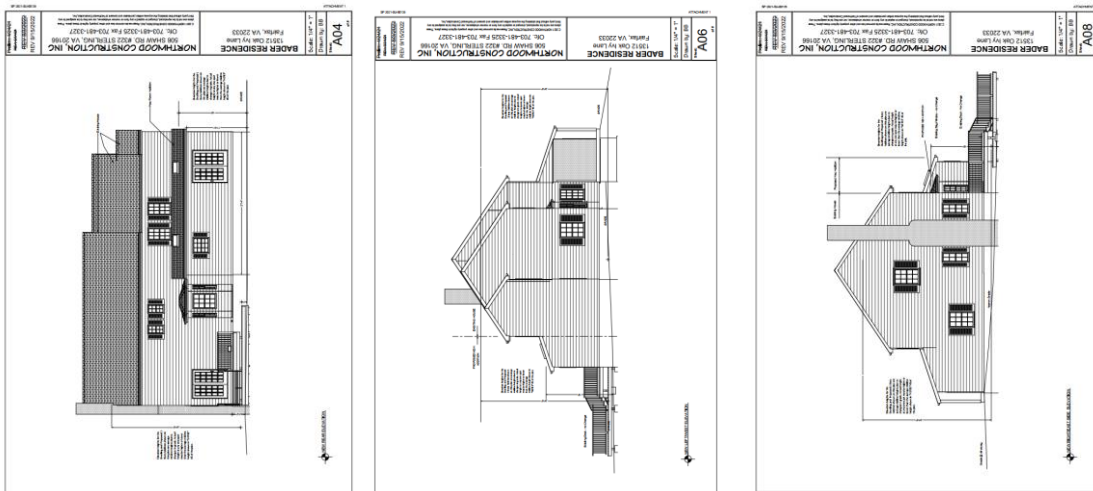
B. The resulting gross floor area of the existing accessory structure and any addition to it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
3. The proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development.
4. The proposal does not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
5. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

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

1. These conditions must be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A copy of the recorded conditions must be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location of the proposed addition as shown on the plat, entitled "Plat Showing the Improvements on Lot 130, Section Four, Franklin Glen," prepared by George M. O'Quinn, Land Surveyor, dated July 29, 2021, as submitted with this application and is not transferable to other land.
3. Pursuant to Par. 6 of Sect. 5100.2.D (11) (e) of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to
4. 150 percent of the gross floor area of the dwelling that existed at the time of first expansion (4,058 square feet existing + 6,087 square feet (150% = 10,145 square feet permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Subsequent additions that meet minimum setback requirements will be permitted without an amendment to this special permit.

5. The addition must be generally consistent with the design as depicted in the architectural elevations as shown in Attachment 1 to these conditions.
6. The applicant must store construction materials for the proposed addition outside the driplines of the existing trees and construction access to the rear yard must be from the east side of the property.
7. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
8. Pursuant to Article 8100.4.D (6) of the Zoning Ordinance, this special permit automatically expires, without notice, 30 months after the date of approval unless construction of the addition has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction 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. Tanner seconded the motion, which carried by a vote of 7-0.



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~ ~ ~ January 11, 2023, Scheduled case of:

Charmaine Madison, SP-2022-SU-00142 to permit a reduction in setback requirements to permit an addition 20.9 ft. from the rear lot line and a reduction in setback requirements based on an error in building location to permit an accessory structure (shed) 2.0 ft. from the northwestern side lot line and 2.0 ft. from the southwestern side lot line. Located at 13428 Muirkirk Ln., Herndon, 20171 on approx. 11,297 sq. ft. of land zoned R-3 (Cluster). Sully District. Tax Map 35-1 ((2)) 126.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator

- Gerardo Perez, Agent for the Applicant

After the hearing where testimony was presented by Kevin McMahan, Brent Krasner, and Mr. Perez, and there being no public speakers for this case, Ms. Day moved to approve SP-2022-SU-00142 for the reasons stated in the Resolution. Mr. Smith seconded the motion, which carried by a vote of 7-0.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Charmaine Madison, SP-2022-SU-00142 to permit a reduction in setback requirements to permit an addition 20.9 ft. from the rear lot line and a reduction in setback requirements based on an error in building location to permit an accessory structure (shed) 2.0 ft. from the northwestern side lot line and 2.0 ft. from the southwestern side lot line. Located at 13428 Muirkirk Ln., Herndon, 20171 on approx. 11,297 sq. ft. of land zoned R-3 (Cluster). Sully District. Tax Map 35-1 ((2)) 126. Ms. Day 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 11, 2023; 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 (Cluster).
3. The area of the lot is 11,297 square feet.
4. The lot is wedge shaped.
5. There is a favorable staff report for the sunroom.
6. The applicant has read, understands, and concurs with the proposed development conditions.

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

THAT the applicant has presented testimony indicating compliance with the standards for the Reduction of Setback Requirements as contained in Sect. 5100.2.D(11) (e) of the Zoning Ordinance, the Board has determined that:

1. The application meets all the submission requirements set forth in Sect. 8101.3.
2. A. The resulting gross floor area of the addition to the existing principal structure is not greater than 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. If a portion of the single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction will be removed;

B. The resulting gross floor area of the existing accessory structure and any addition to it is clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
3. The proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development.
4. The proposal does not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.

5. The proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

AND THAT the applicant has presented testimony indicating compliance with Sects. 5100.2.D(11)(d), Provisions for BZA Authorized Reductions in Setback Requirements Based on an Error in Building Location, the Board has determined:

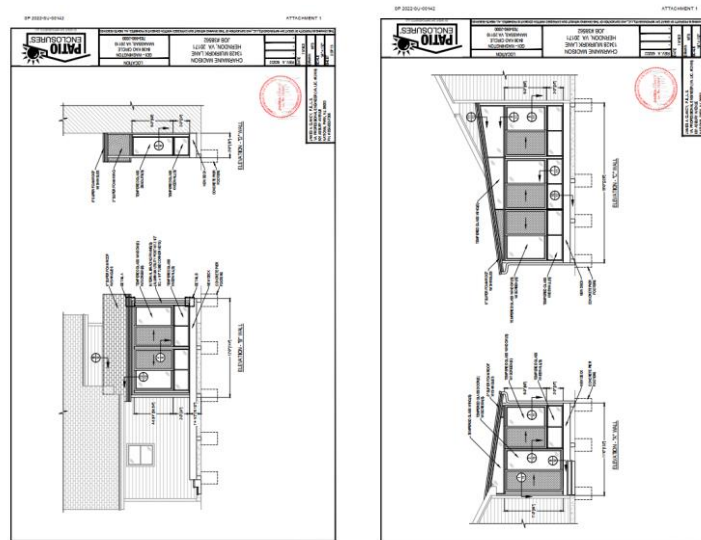
- A. The error exceeds ten percent of the applicable measurement, or
- B. The error is up to ten percent of the applicable measurement and the reduction or modification is requested in conjunction with the approval of another special permit or application for a variance on the property, and
- C. The noncompliance was done through no fault of the property owner, or was the result of an error in the relocation of the building after the issuance of a building permit, if one was required, and
- D. It 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 regarding other properties or public streets, and
- G. Compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship, and
- H. It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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

1. A copy of the Board's approval, including these accompanying conditions, must be recorded by the applicants among the land records of Fairfax County for this lot prior to the issuance of a building permit. A copy of the recorded conditions must be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location of the proposed addition and the existing shed, as shown on the plat, entitled "Special Permit Plat on Lot 126,
3. Section 2, Chantilly Highlands," prepared by Larry N. Scartz, Land Surveyor, dated May 23, 2022 and revised on August 19, 2022, as submitted with this application and is not transferable to other land.
4. Pursuant to Article 5100.2.D (11) € of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (1,910 square feet existing + 2,865 sq. ft. [150%] = 4,775 square feet permitted) regardless of whether such addition complies with the minimum setback requirement or is the subject of a subsequent setback reduction special permit. Subsequent additions that meet the minimum setback requirements are permitted without an amendment to this special permit.
5. The addition must be generally consistent with the design as depicted in the architectural elevations as shown in Attachment 1 to these conditions.
6. The shed must be maintained in good condition at all times or otherwise brought into compliance with the Ordinance.

7. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved special permit/variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
8. Pursuant to Article 8100.4.D (6) of the Zoning Ordinance, this special permit automatically expires, without notice, 30 months after the date of approval unless construction of the sunroom has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction 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 7-0.



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~ ~ ~ January 11, 2023, Scheduled case of:

Matthew A. Lyttle and Jessica L. Werder, VC 2022-MA-00017 to permit construction of a single-family detached dwelling 21.9 ft. from the front lot line adjacent to Seminole Ave. including a roofed deck (covered porch) 15.8 ft. from the front lot line adjacent to Seminole Ave. Located at 4859 Seminole Ave., Alexandria, 22312 on approx. 13,750 sq. ft. of land zoned R-2. Mason District. Tax Map 72-3 ((8)) (E) 66, 69, and 70.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Brandon McCadden, Senior Staff Coordinator
- Matthew Lyttle and Jessica Werder, Applicants
- Public Speaker
 - Robert Chamberlain, 4815 Seminole Ave., Alexandria, 22312

After the hearing where testimony was presented by Brandon McCadden, Brent Krasner, Ms. Werder, and Mr. Lyttle, which was then followed by testimony of the above referenced speaker from the public,

Mr. Smith moved to approve VC 2022-MA-00017 for the reasons stated in the Resolution. Ms. Ballo seconded the motion, which carried by a vote of 7-0.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

Matthew A. Lyttle and Jessica L. Werder, VC 2022-MA-00017 to permit construction of a single-family detached dwelling 21.9 ft. from the front lot line adjacent to Seminole Ave. including a roofed deck (covered porch) 15.8 ft. from the front lot line adjacent to Seminole Ave. Located at 4859 Seminole Ave., Alexandria, 22312 on approx. 13,750 sq. ft. of land zoned R-2. Mason District. Tax Map 72-3 ((8)) (E) 66, 69, and 70. Mr. Smith 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 11, 2023; 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-2.
3. The area of the lot is 13,750 square feet.
4. The applicant has read, understands, and concurs with the proposed development conditions.

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

- 1) That the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property, 2) the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance, OR 3) the granting of the variance would alleviate a hardship by granting a reasonable modification to property or improvements requested by a person with a disability,

AND

1. That the property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.
2. That the variance would not result in a substantial detriment to adjacent property or nearby properties in the proximity of that geographical area.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the granting of the variance would not result in an unpermitted use or a change in the zoning classification.
5. That the relief or remedy sought by the variance application is not available through a special exception or special permit.
6. That the variance would conform with the purposes of the Zoning Ordinance and not be contrary to the public interest.

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

1. This variance is granted for the location of the proposed new dwelling with covered front porch as shown on the variance plat titled, "Variance Plat, #4859 Seminole Avenue, Lots 66, 67, 68, 69 & 70, Block E, Weyanoke", prepared by Michael L. Flynn of Alexandria Surveys, LLC, dated October 29, 2020, as submitted with this application, and is not transferable to other land.
2. The design of the dwelling must be generally consistent with the submitted variance plat and architectural renderings depicted in Attachment 1 to these development conditions.
3. The applicant must relocate the picket fence out of the VDOT right-of-way on Seminole Avenue prior to approval of the residential use permit for the proposed dwelling.
4. The detached garage in the front yard along Seminole Court has been deemed vested by the Zoning Administrator in its current condition and location and therefore may not be replaced, modified, renovated (except for maintenance of the existing structure), or enlarged unless the replacement, modification, or expansion complies with the Zoning Ordinance.
5. The applicant is responsible for identifying and complying with the terms of all legally binding easements, covenants, conditions, liens, judgments, encroachments or other encumbrances to title affecting the subject property, shown or not shown, on the approved variance plat as may be determined by a court of competent jurisdiction. Approval of this application does not abrogate, vacate, interfere with, or invalidate such claims.
6. Pursuant to subsection 8100.6.B(5) of the Zoning Ordinance, the variance for the proposed dwelling with covered front porch and rear deck automatically expires, without notice, 30 months after the date of approval unless construction of the dwelling with covered front porch has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. 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.

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

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~ ~ ~ January 11, 2023, Scheduled case of:

WEARECITYLIGHT (a nonstock corporation), SPA-91-P-040-03 to amend SP-91-P-040 previously approved for a religious assembly with child care center to allow a change in permittee and modifications to development conditions. Located at 2929 Graham Rd., Falls Church, 22042, on approx. 1.91 ac. of land zoned R-4. Providence District. Tax Map 50-3 ((8)) 48.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Brandon McCadden, Senior Staff Coordinator
- David Schneider, Holland & Knight LLC, Agent for the Applicants
- Nathan Crew, Grace Kaczowka, and Dale Sutherland, Applicants

After the hearing where testimony was presented by Brandon McCadden, Brent Krasner, and Mr. Schneider, and there being no public speakers for this case, Ms. Ballo moved to approve SPA-91-P-040-03 for the reasons stated in the Resolution. Ms. Day seconded the motion, which carried by a vote of 7-0.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

WEARECITYLIGHT (a nonstock corporation), SPA-91-P-040-03 to amend SP-91-P-040 previously approved for a religious assembly with child care center to allow a change in permittee and modifications to development conditions. Located at 2929 Graham Rd., Falls Church, 22042, on approx. 1.91 ac. of land zoned R-4. Providence District. Tax Map 50-3 ((8)) 48. Ms. Ballo 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 11, 2023; 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-4.
3. The area of the lot is 1.91 acres.
4. There is a favorable staff rationale.
5. The changes will not involve new construction or additions to the building.
6. The property will be improved with new striping in the parking lot and landscaping.
7. The use is compatible with the neighborhood regarding the childcare and religious assembly.
8. The applicant has read, understands, and concurs with the proposed development conditions.

WHEREAS, the Board has made 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. 4102.1.F(2) and the standards for this use as contained in the Zoning Ordinance.

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

1. This special permit approval is granted to the applicant, WEARECITYLIGHT only, and is not transferrable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This Special Permit is granted only for the purposes(s), structure(s) and/or uses(s) indicated on the special permit plat prepared by Alexandria Surveys, Inc. dated November 1, 1994, revised through December 4, 1995 and approved with this application, as qualified by these development conditions.*
3. A copy of this Special Permit and the Nonresidential Use Permit (NonRUP) must be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.*
4. This Special Permit is subject to the provisions of subsection 8100.7, Site Plans, as determined

by the Director, Land Development Services. Any plan submitted pursuant to this special permit must be in conformance with the approved Special Permit plat and these development conditions.

5. The hours of operation for the child care center are limited to 7:00 a.m. to 6:00 p.m., Monday through Friday. The maximum daily enrollment for this child care center is limited to 80.
6. The maximum seating capacity in the main area of worship for the church is limited to a total of 200. All parking must be on-site except for satellite parking permitted by Condition #13.
7. The points of access to the parking area from Graham Road and Rosemary Lane must retain the markings as one-way entrance or exists.*
8. All pick-up and drop-off activities for the child care center must occur on-site.
9. The applicant must repaint the parking space lines and directional arrows in the front and rear parking areas within 120 days of special permit approval and maintain the parking area in good condition. Additionally, a crosswalk must be striped in the drive aisle between the church building and the northern playground.
10. Within 90 days of special permit approval, the applicant must provide a minimum of 3 accessible spaces near the entrance to the sanctuary, one of which is van accessible, that meet the dimensional standards required by the American with Disabilities Act.
11. The applicant must provide a minimum of 68 parking spaces on-site.
12. Prior to increasing the number of seats in the main area of worship above 150, the applicant must arrange for off-site parking and shuttle service from a satellite location for holidays and special events. Notification of the availability of off-site parking and shuttle services must be posted on the applicant's website.
13. All existing vegetation on the site must be retained and is deemed to fulfill the requirements for Transitional Screening 1 along all of the site's boundaries with the following exception:
 - Evergreen plantings must be provided between the parking spaces and Graham Road along the western lot line.
 - Within 9 months of special permit approval, the applicant must install and maintain in good condition, 5 evergreen trees measuring at least 8 feet in height at the time of planting, within 25 feet of the northern lot line adjacent to lot 46A, unless an alternate planting scheme is deemed generally consistent with this condition by the Zoning Administrator.
14. The applicant must replace any, dead, dying, or stunted trees or shrubs, which must be maintained in good condition within the transitional screening yard areas . The location, size and type of replacement trees must be determined and approved by the Urban Forest Management Division (UFMD).
15. The maximum number of children using the play area must not exceed the limitation in Sect. 4102.4.C of the Fairfax County Zoning Ordinance.
16. A six-foot-high board on board fence must be maintained along the southern and western sides of the play area located in the southeastern portion of the site. A six-foot-high board on board fence must be maintained along the eastern side of the play area located in the northern portion of the site.*
17. The existing chain link and wood fences is deemed to fulfill the barrier requirements.*

18. Pursuant to subsection 8100.4.D(6) this special permit amendment takes effect upon a vote of approval by the Board of Zoning Appeals.

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

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As there was no other business to come before the Board items, the Board adjourned at 12:03PM

Minutes by: Keisha Strand

Approved on: April 19, 2023