

The regular meeting of the Board of Zoning Appeals was held in the Board Auditorium of the Government Center on Wednesday, July 26, 2023. The following Board Members were present; Vice Chairman James R. Hart; Thomas W. Smith III; Rebecca Ballo; Daniel Aminoff; and Donte Tanner; Chairman John F. Ribble III and Ms. Day were absent from the meeting.

Chairman Ribble called the meeting to order at 9:00 a.m. He asked if there were any Board Matters to bring before the Board. As there were no Board Matters, he then discussed the policies and procedures of the Board of Zoning Appeals. Chairman Ribble called for the first scheduled case.

~ ~ ~ July 26, 2023, Scheduled case of:

Masood M. Rahimi, ZAPL-2022-SP-00011 Appeal of a notice of violation (NOV) that the surfaced area for driveway, vehicle, or trailer parking in the front yard exceeds 25% of the front yard, in the R-1 District, in violation of the Zoning Ordinance. Located at 5513 Clifton Road, Clifton, Virginia 20124, on approx. 31,297 sq. ft. of land zoned R 1, Springfield District, Tax Map 55-3 ((4)) 23. (Admin moved from 4/19/2023, and 6/7/2023)

Vice Chairman James R. Hart noted that application ZAPL-2022-SP-00011 had been administratively moved to September 27, 2023.

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~ ~ ~ July 26, 2023, Scheduled case of:

Homa H. Alimi and Heavenly Home Childcare, LLC, SP-2022-MV-00191 to permit a home day care facility, an increase in coverage of the minimum rear setback, and a reduction of minimum setback requirements based on an error in building location to permit an accessory structure (shed) 0.6 ft. from the northwest side lot line. Located at 9217 Haines Dr., Lorton, 22079 on approx. 13,988 sq. ft. of land zoned R-1. Mount Vernon District. Tax Map 106-4 ((2)) 51.

Vice Chairman James R. Hart noted that application SP-2022-MV-00191 had been administratively moved to October 18, 2023.

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~ ~ ~ July 26, 2023, Scheduled case of:

The Korean Evangelical Association of America, Inc. T/A Good Shepherd Evangelical Church of Washington, SPA-2007-SP-006 to amend SP 2007-SP-006 previously approved for a religious assembly to allow for a change in permittee, the addition of an accessory child care center use, and modifications to site and development conditions. Located at 12609 Braddock Rd., Fairfax, 22030, on approx. 4.76 ac. of land zoned R-C and WS. Springfield District. Tax Map 66-2 ((3)) 4. (Admin moved from 2/15/2022, 5/3/2023, and 6/14/2023)

Vice Chairman James R. Hart noted that application SPA-2007-SP-006 had been administratively moved to October 18, 2023.

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~ ~ ~ July 26, 2023, Scheduled case of:

Dildora Rakhmatullaeva, Ibrokhim Rakhmatullaeva, and Ismoil Rakhmatullaeva, VC-2022-MA-00011 to permit surfaced area for a driveway or vehicle or trailer parking exceeding 25 percent of the front yard. Located at 7821 Ridgewood Dr., Annandale, 22003 on approx. 21,881 sq. ft. of land zoned R-2. Mason District. Tax Map 59-4 ((9)) 89. (Continued from 3/8/2023, 4/26/2023, 6/7/2023, and 6/28/2023) (Admin moved from 7/12/2023)

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Brandon McCadden, Staff Coordinator
- Keith Martian, Agent for the Applicants
- Ismoil Rakhmatullaeva, Applicant

After the hearing where testimony was presented by Mr. McCadden, Mr. Krasner, Mr. Martin, and Mr. Rakhmatullaeva, there being no public speakers for this case, Mr. Aminoff moved to continue VC-2022-MA-00011 to September 13, 2023. Mr. Smith seconded the motion, which carried by a vote of 6-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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~ ~ ~ July 26, 2023, Scheduled case of:

Gennaro Rucci III, VC 2021-MV-00018 to allow an accessory structure (detached garage) to remain in the front yard adjacent to Laurel Road on a lot less than 36,000 sq. ft. in area. Located at 4204 Laurel Rd., Alexandria, 22309 on approx. 21,412 sq. ft. of land zoned R-2. Mount Vernon District. Tax Map 101-3 ((8)) (G) 4. (Concurrent with SP 2021-MV-00114). *(Admin moved from 6/8/2022)(Continued from 7/27/2022, 11/2/2022, 3/1/2023, 5/24/2023, and 6/14/2023)*

Gennaro Rucci III, SP 2021-MV-00114 to permit an increase in fence height in the - front yard adjacent to Laurel Road, an increase in the percentage of coverage permitted in the minimum required rear yard, and a reduction in setback requirements based on errors in building location to permit an accessory structure (pavilion) to remain 3.5 ft. from the rear lot line and a second accessory structure (detached garage) to remain 4.1 ft. from the rear lot line. Located at 4204 Laurel Rd., Alexandria, 22309 on approx. 21,412 sq. ft. of land zoned R-2. Mount Vernon District. Tax Map 101-3 ((8)) (G) 4. (Concurrent with VC 2021-MV-00018). *(Admin moved from 6/8/2022)(Continued from 7/27/2022, 11/2/2022, 3/1/2023, 5/24/2023, and 6/14/2023)*

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Gennaro Rucci III, Applicant
- Public Speaker
 - Elizabeth Rucci-Callanan, Address Not Given

After the hearing where testimony was presented by Kevin McMahan, Mr. Krasner, and Mr. Rucci, and with the public testimony from Ms. Rucci-Callanan, Mr. Tanner moved to approve SP 2021-MV-00114 for the reasons stated in the Resolution. Mr. Smith and Mr. Aminoff seconded the motion to approve the special permit, which carried by a vote of 6-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

Mr. Tanner then moved approve VC 2021-MV-00018, Mr. Smith seconded the motion, which **FAILED** by a vote of 2-4. Vice Chairman Hart, Mr. Aminoff, Ms. Ballo, and Mr. Smith voted against the motion. The subject Variance application was **DENIED** for lack of four affirmative votes.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Gennaro Rucci III, SP 2021-MV-00114 to permit an increase in fence height in the front yard adjacent to Laurel Road, an increase in the percentage of coverage permitted in the minimum required rear yard, and a reduction in setback requirements based on errors in building location to permit an accessory structure (pavilion) to remain 3.5 ft. from the rear lot line and a second accessory structure (detached garage) to remain 4.1 ft. from the rear lot line. Located at 4204 Laurel Rd., Alexandria, 22309 on approx. 21,412 sq. ft. of land zoned R-2. Mount Vernon District. Tax Map 101-3 ((8)) (G) 4. 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 July 26, 2023; and

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

1. The applicant is the owner of the property.
2. The present zoning is R-2.
3. The area of the lot is 21,412 square feet.
4. The applicant has read, understands, and concurs with the modified development conditions.

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

AND THAT the applicant has presented testimony indicating compliance with Sects. 5100.2.D(11)(d), Sect. 4102.7.A.(5).(e), Sect. 4102.7.A.(7).(c).3 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. This special permit is approved to permit the existing fence greater than four feet in height in the front yard to remain, for the coverage in the minimum required rear setback exceeding 30 percent, and to permit the pavilion to remain 3.5 feet from the rear lot line and the detached garage to remain 4.1 feet from the rear lot line as shown on the special permit plat entitled "Special Permit Plat, Lot 4, Block G, Section 2, Mount Zephyr," consisting of one sheet, prepared by Michael L. Flynn, Land Surveyor, dated August 31, 2021, and signed and dated on January 18, 2022.

2. In order to bring the existing amount of rear yard coverage into compliance with the Ordinance, the applicant must remove an amount of total rear yard coverage, in order to reduce the total to not more than 2,284 square feet (or 47.9 percent) of the total rear yard area and revegetate the area with turfgrass or other natural landscaping groundcover within 180 days of approval of this special permit.
3. Prior to any land disturbing activity, within 120 days of approval of this special permit, the applicant must submit a residential infill grading (INF) plan to Land Development Services (LDS) prepared by a Virginia-licensed design professional for review and approval. The plan must include completed Fairfax County standard design sheets for proposed stormwater management controls using one or more of the following engineered solutions: Urban Planter Box (County Standard UPB1 or UPB2), Bioretention-Detention Rain Garden (County Standard RG), or Underground Pipe Detention (County Standard UPD) required to collect and store at least 1,332 gallons of water. The design of detention facilities must follow the methodology of the county Simplified Infill Detention Method.

The grading plan must include design, specifications and details for a stormwater detention facility or facilities that captures rainwater and stores the required detention volume of 178 cubic feet.

4. The applicant must sign a Private Maintenance Agreement (PMA) for the proposed detention facilities. The PMA runs with the land and is enforceable on the Permittee and subsequent landowners.
5. Within 180 days after grading plan approval, the Permittee must install the stormwater facility or facilities in accordance with the approved INF plan and provide third-party certification of installation using existing LDS processes.
6. The Permittee must maintain the stormwater management detention measures in proper working condition in conformance with the specifications outlined in Attachment 1 to these conditions, and will be subject to periodic inspections by LDS at a minimum interval of once every five years during reasonable hours and upon prior notice. In the event deficiencies are noted during a county inspection, the Permittee must implement the corrective measures according to the schedule noted in the inspection report. Failure to correct the noted deficiencies will constitute a violation of the special permit and must be either corrected or the rear setback coverage reduced to no more than is allowed by-right.
7. The subject section of fencing must be maintained in good condition at all times.
8. The subject pavilion and detached garage must be maintained in good condition at all times or otherwise brought into compliance with the Ordinance.
9. This approval is contingent on the adoption of the revised Flood Insurance Rate Map (FIRM) panel for the subject property by the Board of Supervisors which remove the subject improvements labeled Shed #1 (detached garage) and Shed #2 from the flood hazard area.
10. If the adopted FIRM map does not remove the subject improvements from the regulatory flood plain/flood hazard area, then the applicant must, within 180 days of adoption of the new FIRM maps, apply for and diligently pursue approval of a Special Exception by the Board of Supervisors. If special exception approval is required, denial of such special exception by the Board of Supervisors renders this special permit, null and void for any structures located in the flood plain.
11. The applicant must obtain all required building and trade permits and pass final building inspections for the existing pavilion and existing detached garage (Shed #3) which are the subject of this special permit, within 180 days of approval of this special permit.
12. The applicant must obtain all required building and trade permits and pass final building inspections for the detached garages (Shed #1 and Shed #2) and the installation of electric service to the metal carport and driveway entry gate, within 180 days of approval of this special permit.

13. Within 1 year of approval of this special permit, the applicant must obtain approval of an RPA Exception for any improvements located within the RPA. Alternatively, the applicant can demolish or relocate the improvements outside the RPA. If the applicant chooses to demolish or relocate the improvements outside the RPA, the applicant must submit a Water Quality Impact Assessment (WQIA) per article 4 of the Chesapeake Bay Preservation Ordinance (CBPO).
14. 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.
15. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

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. Smith and Mr. Aminoff seconded the motion, which carried by a vote of 6-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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Mr. Hart moved that the Board recess and enter into Closed Session for consultation with legal counsel and/or briefings by staff members and consultants regarding litigation in the February 2, 2022 decision of the Board of Zoning Appeals of Fairfax County, Washington Gas Light Company vs Christine Chen Zinner consolidated cases numbers CL 2022-2942 and CL 2022-3061 in the Fairfax County Circuit Court, Rita M. Leach Lewis Trustee of the Rita M. Leach Lewis Trust vs Board of Supervisors of Fairfax County Virginia record number 0815-22-4 in the Court of Appeals of Virginia, and for consultation with legal counsel and/or briefing by staff members and consultants regarding BZA bylaws consolidating pursuant to Virginia Code Ann. Sec. 2.2-3711 (A) (7) (LNMB Supp. 2002). Ms. Ballo and Mr. Tanner seconded the motion, which carried by a vote of 6-0. Chairman Ribble was absent from the meeting.

The meeting recessed at 11:00 a.m. and reconvened at 12:42 p.m.

Mr. Hart then moved that the Board of Zoning Appeals certify that, to the best of its knowledge, only public business matters lawfully exempted from the open meeting requirements prescribed by the Virginia Freedom of Information Act and only matters identified in the motion to convene Closed Session were heard, discussed, or considered by the Board during the Closed Session. Ms. Ballo and Mr. Tanner seconded the motion, which carried by a vote of 6-0. Chairman Ribble was absent from the meeting.

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~ ~ ~ July 26, 2023, Scheduled case of:

Clay H. Worley, TR and Claudia B. Worley, TR, SP-2022-SP-00189 to permit a reduction of setback requirements to permit an addition 16.8 ft. from the rear lot line. Located at 6619 Rock Lawn Dr., Clifton, 20124 on approx. 12,380 sq. ft. of land zoned PDH-2 and WS. Springfield District. Tax Map 65-4 ((7)) 191.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Karen Yee, Staff Coordinator
- Clay H. Worley, Applicants

After the hearing where public testimony was presented by Karen Yee, Mr. Krasner, and Mr. Worley, with no public testimony, Mr. Smith to approve SP-2022-SP-00189 for the reasons stated in the Resolution. Mr. Tanner seconded the motion, which carried by a vote of 5-0. Ms. Ballo was not present for the vote.

Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Clay H. Worley, TR and Claudia B. Worley, TR, SP-2022-SP-00189 to permit a reduction of setback requirements to permit an addition 16.8 ft. from the rear lot line. Located at 6619 Rock Lawn Dr., Clifton, 20124 on approx. 12,380 sq. ft. of land zoned PDH-2 and WS. Springfield District. Tax Map 65-4 ((7)) 191. 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 July 26, 2023; and

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

1. The applicants are the owners of the property.
2. The present zoning is PDH-2 and WS.
3. The area of the lot is 12,380 square feet.
4. There is a favorable staff recommendation, and the Board adopts the rationale in the staff report.
5. 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 applicants among the land records of Fairfax County for this lot prior to the issuance of a building permit for the addition. A copy of the recorded conditions must be provided to the Zoning Permit Review Branch, Department of Planning and Development.
2. This special permit is granted only for the location of the proposed screened porch addition as indicated on the plat entitled "*Special Permit Plat on Lot 191, Section 56 Little Rocky Run*" prepared by Apex Surveys, LLP, dated March 15, 2022, and revised May 31, 2023., consisting of one sheet, and approved with this application, as qualified by these development conditions.
3. Pursuant to Article 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 (3,381 square feet existing + 5,071 square feet (150%) = 8,452 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. 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 setbacks requirements are permitted without an amendment to this special permit.
4. The subject addition must be generally consistent with the design as depicted in 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 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 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 has commenced on the screened porch addition 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.

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. Tanner seconded the motion, which carried by a vote of 5-0. Ms. Ballo was not present for the vote. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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~ ~ ~ July 26, 2023, Scheduled case of:

The Mid Atlantic District of the Christian and Missionary Alliance, Inc., SPA 2017-LE-116 to amend SP 2017-LE-116 previously approved for a religious assembly with child care center to permit a change in permittee, deletion of the child care center use, and modifications to development conditions. Located at 6315 Beulah St., Alexandria, 22310, on approx. 1.63 ac. of land zoned R-1 and HC (pt.). Franconia District. Tax Map 81-3 ((9)) 39.

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Philip Isaiah, Staff Coordinator
- Ira Towns, Agent for Applicant

Mr. Hart gave a disclosure.

After the hearing where public testimony was presented by Philip Isaiah, Mr. Krasner, and Mr. Towns, with no public testimony, Ms. Ballo moved to approve SPA 2017-LE-116 to for the reasons stated in the Resolution. Mr. Aminoff seconded the motion, which carried by a vote of 6-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

The Mid Atlantic District of the Christian and Missionary Alliance, Inc., SPA 2017-LE-116 to amend SP 2017-LE-116 previously approved for a religious assembly with child care center to permit a change in permittee, deletion of the child care center use, and modifications to development conditions. Located at 6315 Beulah St., Alexandria, 22310, on approx. 1.63 ac. of land zoned R-1 and HC (pt.). Franconia District. Tax Map 81-3 ((9)) 39. 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 July 26, 2023; and

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

1. The applicant is the owner of the property.
2. The present zoning is R-1 and HC (in part).
3. The area of the lot is 1.63 acres.
4. 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 approval is granted to the applicant only, The Mid Atlantic District of the Christian and Missionary Alliance, Inc., and is not transferable without further action of this Board, and is for the location indicated on the application, 6315 Beulah Street, and is not transferable to other land.
2. This Special Permit is granted only for a religious assembly use as indicated on the special permit plat titled, "*Plat Showing Improvements on Lot 29, Section Two, Walhaven,*" prepared by, Dominion Surveyors, Inc. dated September 7, 2022, and revised through July 5, 2023, consisting of one sheet and approved with this application as qualified by these development conditions.
3. The seating capacity in the main area of worship is limited to 110 seats.
4. No more than one (1) congregation may hold services or events on the subject property at any one time and events must be scheduled so there is a minimum of thirty (30) minutes between the end of one service or event and the commencement of the next.
5. All parking for the church and accessory activities must be on-site.
6. Any Signage on the property must be in accordance with the requirements of Sect 7101.2.A(5)(b) of the Zoning Ordinance. In order to comply with the applicable limitations in the Ordinance, the applicant must remove one of the two freestanding signs and obtain a sign permit for the remaining sign within 120 days of approval of this special permit amendment.
7. All transitional screening requirements are waived except for the area adjacent to the proposed outdoor play area and Lot 30 to the east. The applicant must install and maintain in good condition a solid wood fence, or other solid barrier no greater than 6.0 feet in height, and a row of evergreen trees on the east and south sides of the playground to screen the adjacent residential property from the activities on the church property. The evergreen trees must be at least 8.0 feet tall at maturity. The applicant must maintain the existing mature trees along the eastern lot line following completion of all construction activities.
8. The existing fence will satisfy the barrier requirement under Sect. 5108.6-7 of the Zoning Ordinance.
9. All outdoor activities must comply with the Noise Ordinance.
10. 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.

11. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

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 6-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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~ ~ ~ July 26, 2023, Scheduled case of:

Marie Ann Fella, SP-2022-LE-00171 to permit a reduction in setback requirements based on an error in building location to permit an addition 21.8 ft. from the rear lot line. Located at 5303 Neville Ct., Alexandria, 22310 on approx. 11,260 sq. ft. of land zoned R-3. Franconia District. Tax Map 82-1 ((8)) 105. (*Admin moved from 7/19/2023*)

The participants in the hearing were as follows:

- Brent Krasner, Chief, Special Permit and Variance Branch
- Kevin McMahan, Staff Coordinator
- Amol Fulambarkar, Agent for Applicants
- Blake DeMarr, Civil Engineer

After the hearing where public testimony was presented by Kevin McMahan, Mr. Krasner, Mr. Fulambarkar, and Mr. DeMarr with no public testimony, Mr. Maribojoc moved to approve SP-2022-LE-00171 for the reasons stated in the Resolution. Ms. Ballo seconded the motion, which carried by a vote of 6-0. Chairman Ribble and Ms. Day was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Marie Ann Fella, SP-2022-LE-00171 to permit a reduction in setback requirements based on an error in building location to permit an addition 21.8 ft. from the rear lot line. Located at 5303 Neville Ct., Alexandria, 22310 on approx. 11,260 sq. ft. of land zoned R-3. Franconia District. Tax Map 82-1 ((8)) 105. Mr. Maribojoc 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 July 26, 2022; and

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

1. The applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 11,260 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:

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. This special permit is approved for the location of the addition, labeled "covered patio" as shown on the plat, entitled "Special Permit Plat, Showing Improvements on Lot 105, Section 8, Bush Hill Woods, prepared by Thomas G. Lutke, Land Surveyor, dated July 26, 2018, as submitted with this application and is not transferable to other land.
2. The applicant must obtain all required trade permits and pass final building inspections for the addition which is the subject of this special permit, within 120 days of approval of this special permit.
3. The applicant must obtain all required trade permits and pass final building inspections for the existing open deck attached along the northwest side of the house, within 120 days of approval of this special permit.
4. The subject addition must be maintained in good condition at all times or otherwise brought into compliance with the 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 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.
6. Pursuant to Sect. 8100.4.D(6) of the Zoning Ordinance, this special permit will take effect upon a vote of approval by the Board of Zoning Appeals.

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.

Ms. Ballo seconded the motion, which carried by a vote of 6-0. Chairman Ribble and Ms. Day was absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

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~ ~ ~ July 26, 2023, Scheduled case of:

North American Islamic Foundation, A 2021-DR-011, Appeal of a determination that the appellant is operating a place of worship without a valid Non-Residential Use Permit (Non-RUP), in violation of Zoning Ordinance provisions. Located at 13515 Dulles Technology Drive, Suite 1, Herndon, Virginia 20170, on approx. 0 ac. of land, in a condominium consisting of 12,801 square feet of gross floor area zoned I-4, Dranesville District, Tax Map 16-3((19)) (C2)1. (*Admin. move from 10/06/2021, 3/23/2022, 6/8/2022, and 9/28/2022*)(**Deferred from 3/29/2023, and 5/24/2023**)

The participants in the hearing were as follows:

- Sara Morgan, Deputy Zoning Administrator for Appeals Zoning Administration Division
- Robert D. Brant, Agents for Applicants

After the hearing where testimony was presented by Ms. Morgan and Mr. Brant, and there being no public speakers for this case, Mr. Aminoff moved to continue A 2021-DR-011 to September 20, 2023. Mr. Tanner seconded the motion, which carried by a vote of 6-0. Chairman Ribble and Ms. Day were absent from the meeting. Mr. Smith voted in his capacity as the alternate board member.

As there was no other business to come before the Board, the meeting was adjourned at 1:35 p.m.

Minutes by: Melissa R. Taylor

Approved on: March 20, 2024