

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 24, 2013, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA:

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 2, General Regulations, Part 4, Qualifying Lot and Yard Regulations, Sect. 2-419, Reduction in Minimum Yard Requirements Based on Error in Building Location, to read as follows:

Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in the minimum yard requirements in the case of a building, or a modification to the location regulations in the case of any freestanding accessory structure existing or partially constructed, which does not comply with such requirements applicable at the time such building or accessory structure was erected. Such a reduction may be approved by the Zoning Administrator in accordance with the following provisions:

1. The Zoning Administrator determines that:
 - A. The error does not exceed ten (10) percent of the measurement that is involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building or structure subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements and/or location regulations would cause unreasonable hardship upon the owner, and
 - G. 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.
2. In approving such a reduction or modification under the provisions of this Section, the Zoning Administrator shall allow only a reduction or modification necessary to provide reasonable relief and, as deemed advisable, may prescribe such conditions, to include landscaping and screening measures to assure compliance with the intent of this Ordinance.
3. Upon the approval of a reduction or modification for a particular building or structure in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

4. The Zoning Administrator shall have no power to waive or modify the standards necessary for approval as specified in this Section.
5. If there is an error greater than ten (10) percent of the measurement that is involved, a reduction or modification may be granted by the BZA in accordance with the provisions of Sect. 8-914.
6. In accordance with Sect 8-914, the BZA may also grant a reduction of the minimum yard requirements or a modification of the accessory structure location requirements due to an error in building location that is no greater than ten (10) percent of the measurement involved when 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 in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent.

Amend Article 8, Special Permits, Part 9, Group 9 Uses Requiring Special Regulation, Sect. 8-914, Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location, by revising the introductory paragraph and Paragraphs 2, 3 and 4 to read as follows:

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building or a modification to the location regulations of any freestanding accessory structure existing or partially constructed which does not comply with such requirements applicable at the time such building or structure was erected, but only in accordance with the following provisions:

2. The BZA determines that:
 - 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.
3. In granting such a reduction or modification under the provisions of this Section, the BZA shall allow only a reduction or modification necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction or modification for a particular building or structure in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

Amend Article 19, Boards, Commissions, Committees, Part 3, Architectural Review Board, Sect. 19-303, Membership, by revising Par. 1 to read as follows:

1. The ARB shall be composed of ten (10) voting members who shall be residents of the County with demonstrated knowledge of and interest in the preservation of historical, architectural, archaeological and cultural sites. Members shall be appointed by the Board of Supervisors as follows:
- A. At least two (2) members shall be certified architects.
 - B. One (1) landscape architect authorized to practice in Virginia.
 - C. One (1) lawyer with membership in the Virginia Bar.
 - D. One (1) archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology as published in 36 CFR Part 61.
 - E. The other members shall be drawn from the ranks of related professional groups such as historians, lawyers, and real estate brokers.
 - F. In addition, there shall be one (1) ex officio and nonvoting member from the Fairfax County History Commission.

This amendment shall become effective on September 25, 2013 at 12:01 a.m.

GIVEN under my hand this 24th day of September, 2013.

CATHERINE A. CHIANESE
Clerk to the Board of Supervisors