

**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 Monday, November 20, 2006, 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, by adding a new Sect. 2-422 to read as follows:

2-422 Compliance with Other Applicable Regulations and Standards

Notwithstanding any minimum yard requirements or locational criteria contained in this Ordinance or any zoning approval associated with a rezoning, special permit, special exception or variance, no structure shall be allowed if such structure is precluded by any provision of The Code and/or subject to any applicable requirements of the Virginia Uniform Statewide Building Code that conflict with the zoning approval, including but not limited to, any fire rating wall and limits on the percentage of wall openings.

Amend Article 8, Special Permits, as follows:

- **Amend Part 0, General Provisions, Sect. 8-011, Submission Requirements, by revising the lead-in paragraph to read as follows:**

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location, Reduction of Certain Yard Requirements, Increase in Fence and/or Wall Height in Any Front Yard, Certain Additions to an Existing Single Family Detached Dwelling When the Existing Dwelling Extends into a Minimum Required Yard by More Than Fifty (50) Percent and/or is Closer Than Five (5) Feet to a Lot Line and Modification to the Limitations on the Keeping of Animals. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below or the archaeological submission requirement of Par. 8 below, if it is determined that the requirement is clearly not necessary for the review of the application.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**

- **Amend Sect. 8-901, Group 9 Special Permit Uses, by adding a new Par. 23 to read as follows:**

23. Certain Additions to an Existing Single Family Detached Dwelling When the Existing Dwelling Extends into a Minimum Required Yard by More Than Fifty (50) Percent and/or is Closer Than Five (5) Feet to a Lot Line.

- **Amend Sect. 8-922, Provisions for Reduction of Certain Yard Requirements, by revising Par. 4 to read as follows:**

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage.

- **Add a new Sect. 8-924 to read as follows:**

8-924 Certain Additions to an Existing Single Family Detached Dwelling When the Existing Dwelling Extends into a Minimum Required Yard by More Than Fifty (50) Percent and/or is Closer Than Five (5) Feet to a Lot Line

The BZA may approve certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line, but only in accordance with the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential in Article 3, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved special exception plat, special permit plat or variance plat or on a proffered generalized development plan.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.
2. The applicant shall demonstrate that the existing single family detached dwelling complied with the minimum required yards in effect when the

dwelling was constructed and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.

3. When the existing single family detached dwelling and the proposed addition extend into a minimum required yard by a distance greater than fifty (50) percent of the minimum required yard and/or is closer than five (5) feet to a lot line, no portion of the proposed addition shall extend closer to the lot line associated with such yard than any portion of the existing dwelling. In addition, any eaves or other extensions associated with such building addition shall not extend beyond the point of the existing single family detached dwelling that is closest to the affected lot line.
4. The resulting gross floor area of an addition to an existing single family detached dwelling may be up to 150 percent of the total gross floor area of the dwelling that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of the single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage.
5. The BZA shall determine that the proposed addition will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
6. The BZA shall determine that the proposed addition is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
7. No special permit shall be granted if the property is in violation of any provision of this Ordinance, including but not limited to the limit on the number of dwelling units per lot and/or the limits on the occupancy of any dwelling unit.
8. The BZA shall determine that the proposed addition shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion and stormwater runoff.

9. The BZA may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the addition on adjacent properties.
10. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any existing building or structure and of the proposed addition. In addition, for decks, the height of the finished floor above finished ground level.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and the proposed addition to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. If applicable, the location of a well and/or septic field.
 - H. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - I. The location, type and height of any existing and proposed landscaping and screening.
 - J. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing

and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

K. Seal and signature of professional person certifying the plat.

11. Architectural depictions of the proposed addition as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising the Group 9 entry in Par. 1 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Group 9 special permit

Open air produce stand	\$ 585
Accessory dwelling unit	\$ 140
Modification to minimum yard requirements for R-C lots	\$ 60
Modification to the limitations on the keeping of animals; error in building location; reduction of certain yard requirements on a single family dwelling lot; modification of minimum yard requirements for certain existing structures and uses; certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line; noise barriers on a single residential lot; increase in fence and/or wall height in any front yard on a single family dwelling lot	\$ 295
Reduction of certain yard requirements on all other uses; increase in fence and/or wall height in any front yard on all other uses	\$ 2645
All other uses	\$ 5295

This amendment shall become effective on November 21, 2006 at 12:01 a.m.

GIVEN under my hand this 20th day of November, 2006.

NANCY VEHRS
Clerk to the Board of Supervisors