

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-29-09 Brooks & JoAnn Sunkett

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: February 2, 2011.

CERTIFICATE OF SERVICE

This is to certify that on February 8, 2011, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Anne F. Carter
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER, Building Code Official, Permits & Review Group
Other Interested Parties

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioners: Brooks & JoAnn Sunkett

Appeal No.: V-29-09

Subject Property: Lot 7, Block G, Camelot Subdivision, being 12506 Sir Walter Drive, Glenn Dale,
Prince George's County, Maryland

Witness: Richard Sibilly

Heard: June 17, 2009; Decided: July 8, 2009

Reconsidered: February 2, 2011

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member

RESOLUTION
ON RECONSIDERATION

This appeal was brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting variances from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioners requested that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width, and Section 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Variances of 5 feet side yard width and 1.2% net lot coverage were requested to validate existing conditions and construct a sunroom and deck.

On July 8, 2009, the Board voted unanimously to approve the variances "to validate existing conditions and construct an enclosed porch and deck". A written decision was issued on July 30, 2009. Petitioners' approved site plan, and thus the Board's approval language, was later found to incorrectly describe the proposed construction and Petitioners were referred back to the Board. See Exhs. R-2, R-3. Petitioners provided a corrected site plan. See Exh. R-4.

On February 2, 2011, to correct the approval language and site plan errors, the Board granted (1) a motion to reconsider, vacating the Board's previous decision and voiding the previously-approved site plan, and (2) a motion to enter certain documents into the record regarding the need to make certain corrections and to actually correct the record. The Board adopted the record from the previous proceeding into the record on reconsideration. New information and appropriate corrections have been incorporated into the evidence presented below.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1965, contains 10,575 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached carport, above-ground swimming pool, enclosed porch and driveway. The existing house was built in 1968. See Exhibits ("Exhs.") 4, 7, 17.

2. The right side of the lot is much shallower than the left due to the angle of the rear property line. See Exhs. 4, 8, R-4.

3. Petitioners would like to construct a 12' x 25' sunroom and a 16' x 16' deck on the rear of the existing dwelling. See Exhs. R-3, R-4. Construction of the sunroom would cause the allowed amount of net lot coverage to be exceeded and a variance of 1.2% net lot coverage was requested. See Exh. 11.

4. In order to obtain a building permit for the sunroom and deck, an existing condition must also be validated. Since the existing attached carport is located only 3 feet from the side lot line, a variance of 5 feet side yard width was requested. See Exhs. 11, R-4.

5. Petitioner Brooks Sunkett testified that they would like to expand their back porch and add a deck to the side of the porch. He stated that the proposed deck would be constructed over an existing patio.

6. Richard Sibilly testified that Petitioners' building plan consists of demolishing the existing screened porch, rebuilding and expanding it as a sunroom, and building a deck at the end of and with access to the sunroom. See Exh. R-4. He explained that a new set of steps, broken up with landings for safety, will be built within the deck at the end of the sunroom in approximately the same location as existing steps and the new steps will access the area under the deck and the rear yard. See Exhs. 3(a) & (b), 5(D).

7. Petitioner JoAnn Sunkett testified that they have lived at the property for almost 20 years. She stated that the swimming pool, carport, back porch, patio awning and back steps existed when they purchased the property.

8. Petitioners' corrected site plan indicates construction of a 16' x 16' deck and a 12' x 25' sunroom (with the same footprint as a 9' x 12' extension to a 12' x 16' enclosed porch). Compare Exhs. 17 and R-4.

Applicable Code Section And Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the irregular shape of the property, existing conditions on the property, the house being built many years ago, the proposed development meeting all setback requirements, the proposed deck to be built over existing patio area, the existing enclosed porch being removed prior to construction of the proposed sunroom, construction of a 9' x 12' extension to a 12' x 16' enclosed porch being found to be equivalent to construction of a 12' x 25' sunroom with the same footprint, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 5 feet side yard width and 1.2% net lot coverage in order to validate existing conditions and construct a 12' x 25' sunroom and 16' x 16' deck on the property located at Lot 7, Block G, Camelot Subdivision, being 12506 Sir Walter Drive, Glenn Dale,

Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in conformance with the approved site plan, Exhibit R-4.

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.