

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

Date: February 23, 2010

Petitioners: Keith & Andrea Glenn

Appeal No.: V-82-09

Subject Property: Lot 9, Mount Oak Estates Subdivision, being 2805 Westbrook Lane, Bowie,  
Prince George's County, Maryland

Action by the Board: February 3, 2010

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

RESOLUTION

Request was made to the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (Board), by "The Woods at Woodmore Homeowners Association, Inc." (TWWHA) for reconsideration of the Board's decision, issued on January 4, 2010, to approve Petitioners' request for variances of 39 feet front street line setback, 15 feet left side lot line setback, 19 feet right side lot line setback and 35 feet rear lot line setback for an existing 8-foot fence, a waiver of the parking area requirement for an existing circular driveway in the front yard, and a variance of 2.28% net lot coverage in order to validate and obtain a building permit for an existing 8-foot fence and circular driveway and to construct a two-story pool house addition, with an attic on a crawlspace and a covered porch with a gazebo, a one-story enclosed breezeway and a two-story rotunda on a crawl space on the property located at Lot 9, Mount Oak Estates Subdivision, being 2805 Westbrook Lane, Bowie, Prince George's County, Maryland (Subject Property).

After consideration of the points raised in TWWHA's letter requesting reconsideration, and Petitioners' response thereto, the Board finds as follows:

1. On November 18, 2009, the Board heard Appeal No. V-82-09 for which a final decision was issued on January 4, 2010. TWWHA did not appear at the hearing. See Exhibit ("Exh.") R-1.
2. By letter dated January 28, 2010 (Reconsideration Letter), counsel for TWWHA requested reconsideration of the Board's final decision, taking exception to testimony by Petitioners at the hearing that no homeowners association, i.e. TWWHA, existed. See Exh. R-2. The Reconsideration Letter stated that Petitioners failed to submit their development proposals to the Architectural Committee in violation of the TWWHA's covenants. On those bases, the Board is requested to reconsider its final decision.
3. A document titled "Declaration of Covenants, Conditions and Restrictions for The Woods at Woodmore Homeowners Association, Inc." (Declaration of Covenants) was made by Mount Oak Estates, LLC (Mount Oak Estates) and recorded with the Office of Land Records for Prince George's County, Maryland on March 17, 2004 (Liber 29196/Folio 196). See Exh. R-5.
4. The Declaration of Covenants states that Mount Oak Estates is the owner of certain real property and specifically identifies the Subject Property as part of that real property.
5. Petitioners purchased the Subject Property from Mount Oak Estates on January 31, 2005 (recorded at Liber 21531/Folio 364 on March 2, 2005). See Exh. R-4.

6. Counsel for TWWHA states in the Reconsideration Letter that TWWHA is "an association that has been properly and legally formed to govern the Mt. Oak Estates Subdivision pursuant to its Declaration of Covenants, Conditions and Restrictions." See Exh. R-2.

7. As of February 3, 2010, however, TWWHA was not listed with the Maryland Department of Assessments and Taxation as an active business entity operating in the state of Maryland. See Exh. R-6.

8. Prince George's County property tax records indicate that Mount Oak Estates owns land adjoining the Subject Property. See Exhs. R-7 & R-8.

9. In their letter in opposition to the Reconsideration Letter, Petitioners stated that they had no knowledge of the existence of TWWHA until the present request for reconsideration was made. See Exh. R-3.

10. Pursuant to Board procedures and Section 27-231(d) of the Zoning Ordinance, fifteen (15) days prior to the Board's hearing on Petitioners' variance request, a notice of the hearing was sent by certified mail to Mount Oak Estates, as an adjoining property owner, at the mailing address shown in the County's property tax records. See Exhs. 1, 13-14, R-7, R-8. A signed return receipt for certified delivery of the hearing notice to Mount Oak Estates was received by the Board. See Exh. 14. In addition, pursuant to Section 27-231(d)(8), a durable sign publicizing the date, time and location of the hearing was posted on the Subject Property. See Exhs. 15-17.

11. Even assuming that TWWHA was legally formed as an entity at some point, evidence suggests that it was not in good standing as a legal entity to conduct business before this Board at the time of the hearing.

12. We find that legal notice was mailed to all adjoining property owners, including Mount Oak Estates.

13. In addition, we find that notice of the hearing was conspicuously posted on the Subject Property.

14. Neither Mount Oak Estates, who received actual notice by certified mail, nor TWWHA, who should have received at least constructive notice from the posting, appeared at the hearing to timely oppose Petitioners' request. Neither has provided any post-hearing evidence that Petitioners were, in fact, aware of TWWHA's existence.

15. Based on all of the above, the Board does not find that a mistake in fact of TWWHA's existence was committed by Petitioners in this matter.

BE IT THEREFORE RESOLVED, unanimously, that the previous decision of the Board be and hereby is AFFIRMED and the request for reconsideration be and hereby is DENIED.

BOARD OF ZONING APPEALS

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

cc: Petitioners  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DER, Building Code Official, Permits & Review Div.  
Other Interested Parties  
Danie E. Engles, Esq.