

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ANN KORZENIEWSKI, TR & GREG KORZENIEWSKI, TR, SP 2016-DR-009 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit a reduction of certain yard requirements to permit construction of an addition 18.2 ft. from the rear lot line and a reduction in minimum yard requirements based on errors in building location to permit a roofed deck to remain 6.7 ft. from a side lot line, and an addition (deck with trellis and lattice) to remain 5.4 ft. from a rear lot line. Located at 6716 Marbo Ct., Falls Church, 22046, on approx. 10,853 sq. ft. of land zoned R-4. Dranesville District. Tax Map 40-4 ((39)) 5. Mr. Hammack 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 May 11, 2016; and

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

1. The applicants are the owners of the land.
2. The applicant has satisfied the six subsections specifically set forth in Section 8-922 of the Ordinance.
3. There is a favorable staff recommendation and the Board adopts the rationale presented by staff.
4. Under Section 8-914, the applicant has satisfied sections A-H for error in building location.
5. Noncompliance was done in good faith as the error was made by the prior owners of the property.
6. The applicants have read, understand, and concur with the proposed development conditions.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- 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.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of the addition as shown on the special permit plat, entitled "Special Permit Plat, Lot 5 Section 2 Woodland Glen," prepared by Michael L. Flynn, L.S., of Alexandria Surveys, LLC, dated February 2, 2016 and received February 10, 2016, consisting of one sheet as submitted with this application and is not transferable to other land.

3. Pursuant to Par. 4 of Sect. 8-922 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 (3,891 square feet existing + 5,837 square feet (150%) = 9,728 square feet permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard 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 shall be deemed to include the floor area of any attached garage. Subsequent additional that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be generally consistent with the design of the existing house and the rendering as shown on Attachment 1 to these conditions.
5. The applicant shall install tree protection fencing adjacent to the area of construction prior to commencing site work, and maintain tree protection fencing over the duration of construction.
6. The Applicant recognizes and acknowledges that the attached deck in the rear yard of the subject property that is the subject of this special permit application encroaches into a 15-foot wide storm drainage easement. Accordingly, the Applicant and their successors and assigns shall indemnify, keep and save harmless the County, its agents, officials, employees, volunteers, and the Board of Zoning Appeals against claims of injuries, death, damage to property, or other suits, liabilities, judgments, cost and expenses which may otherwise accrue against the county in consequence of the granting of this special permit. The Applicant and their successors and assigns shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the county and/or the Board of Zoning Appeals in any such action, the Applicant and their successors and assigns shall, at his or her own expense, satisfy and discharge the same.

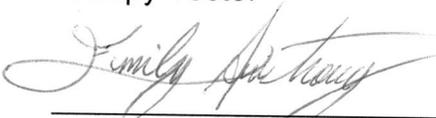
This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, 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.

Mr. Byers seconded the motion, which carried by a vote of 6-0. Mr. Smith was absent from the meeting.

A Copy Teste:



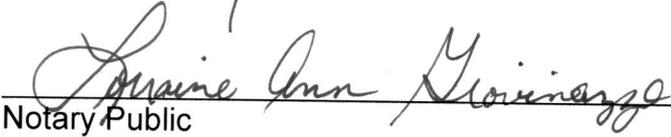
Emily J. Armstrong, Deputy Clerk  
Board of Zoning Appeals

ACKNOWLEDGEMENT

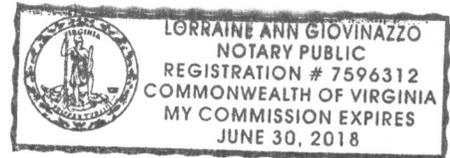
County of Fairfax  
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of

May, 2016.

  
Notary Public

My commission expires: 6/30/18



ATTACHMENT 1: Architectural Renderings for Proposed Addition

