

## COUNTY OF FAIRFAX, VIRGINIA

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

SOUMYA SARKAR, SP 2014-SU-153 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction in certain yard requirements to permit addition 14.6 ft. from rear lot line and reduction to the minimum yard requirements based on error in building location to permit accessory structure to remain 7.8 ft. from rear lot line. Located at 13586 Cobra Dr., Herndon, 20171, on approx. 8,558 sq. ft. of land zoned R-3 (Cluster). Sully District. Tax Map 25-3 ((4)) 932. (Decision deferred from 10/22/14.) Mr. Hart 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 November 5, 2014; and

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

1. The applicant is the owner of the land.
2. With respect to the addition, the Board has a favorable staff recommendation and adopts the rationale in the staff report.
3. With respect to the accessory structure, based on the testimony and the record that was heard at the previous hearing, there was not going to be any significant negative impact on anybody.
4. The reason for the deferral was the question about whether the mulched area under the play set counted toward the 30 percent or not, as it has in at least one other case. Staff had comeback, and the Zoning Administrator had concluded that it does count.
5. Development conditions have been changed to deal with the 30 percent issue. Otherwise, the development conditions had already mitigated any likely impact from the application.
6. Based on the record, Section 8-922 standards have all been met.
7. This is an oddly shaped lot. It is sort of triangular. There are a lot of things going on in the rear yard, but it is quite shallow. The location of the screen porch is basically where the existing deck is now. It is a little bit different, but it is the logical place to put an addition.

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 screened porch addition (238 square feet, 16 feet in height) and the play house and swing, as shown on the plat prepared titled "Special Permit Plat, Lot 932, Section 12, Chantilly Highlands," prepared by Guy H. Briggs, Land Surveyor, dated October 8, 2013 and revised through October 30, 2014, as submitted with this application and is not transferable to other land.
3. The screened porch addition shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
4. The applicant shall ensure rear yard coverage complies with the applicable Zoning Ordinance provisions within six (6) months of approval.

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 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 5-0. Mr. Smith and Ms. Theodore were absent from the meeting.

A Copy Teste:

Mary D. Padrutt  
Mary D. Padrutt, Deputy Clerk  
Board of Zoning Appeals

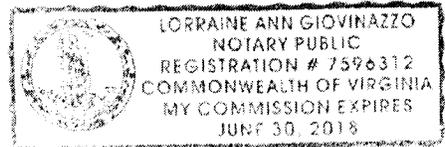
ACKNOWLEDGEMENT

County of Fairfax  
Commonwealth of Virginia

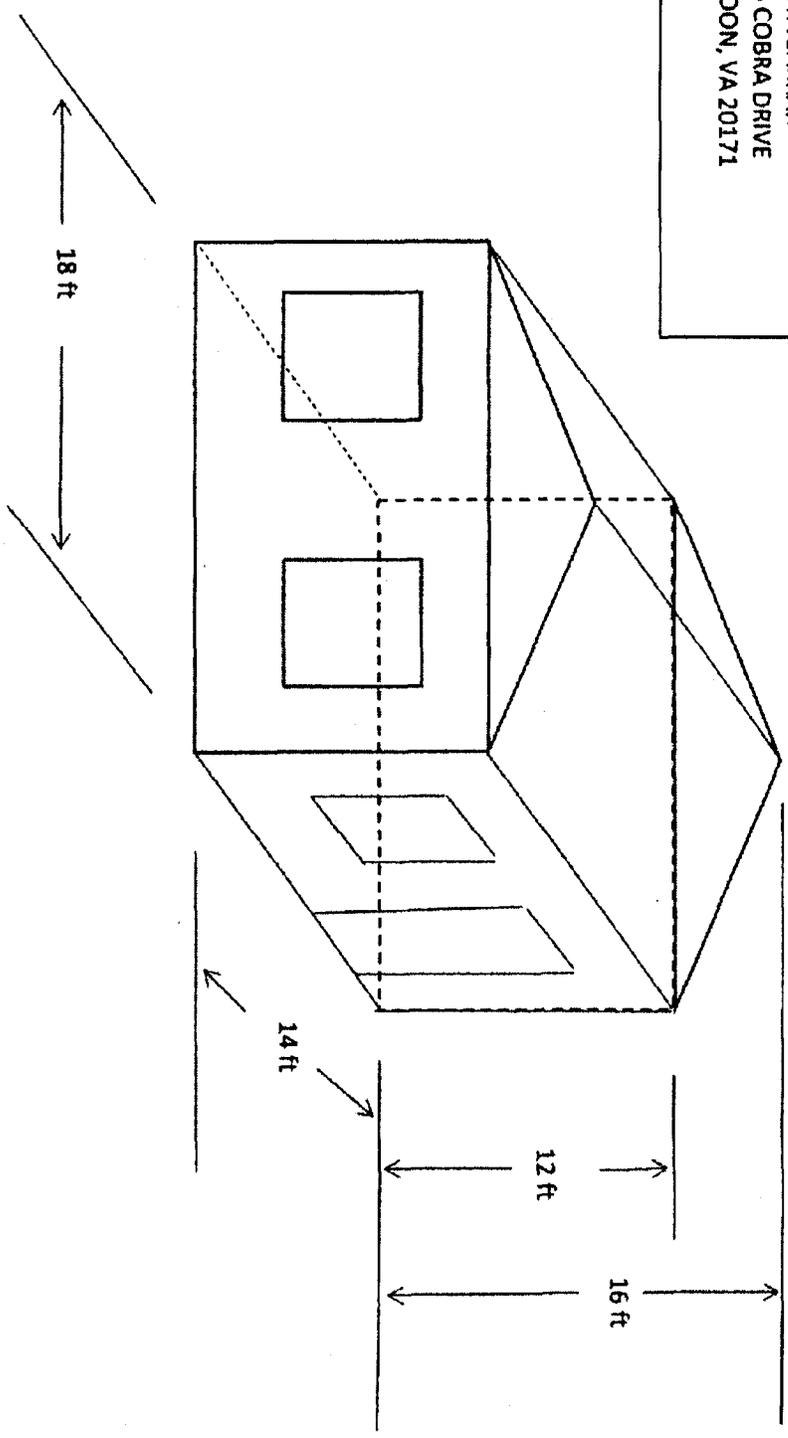
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of  
November, 2014.

Lorraine Ann Giovinazzo  
Notary Public

My commission expires: 6/30/18



SPECIAL PERMIT APPLICATION  
SCREENED PORCH  
SOUMYA SARKAR  
13586 COBRA DRIVE  
HERNDON, VA 20171



RECEIVED  
Department of Planning & Zoning  
FEB 12 2014  
Zoning Evaluation Division