



## Board of Appeals of Baltimore County

JEFFERSON BUILDING  
SECOND FLOOR, SUITE 203  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND, 21204  
410-887-3180  
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July 24, 2015

Douglas N. Silber, Esquire  
Law Offices of Douglas N. Silber, L.L.C.  
P.O. Box 203  
Brooklandville, Maryland 21022

Dr. Svetlana Savchenko  
11609 Woodland Drive  
Timonium, Maryland 21093

RE: In the Matter of: *Sidney and Jean Silber – Applicant*  
Case No: CBA-15-008

Dear Mr. Silber and Dr. Savchenko:

Enclosed please find a copy of the Order on Motion for Reconsideration issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review** filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington  
Administrator

KLC/tam  
Enclosure  
Duplicate Original Cover Letter

c: Jean Silber  
Sergey Brindarov  
Gene Kutlik  
Jonathan A. Azrael, Esquire  
Lawrence M. Stahl, Managing Administrative Law Judge  
Jeff Radcliffe, Code Enforcement/PAI  
Donald Brand, Building Engineer/PAI  
Carl Richards, Zoning Supervisor/PAI  
Arnold Jablon, Director/PAI  
Nancy C. West, Assistant County Attorney/Office of Law  
Michael E. Field, County Attorney/Office of Law

IN MATTER OF	*	
SIDNEY AND JEAN SILBER - APPLICANT		BEFORE THE
11611 Woodland Drive	*	
Lutherville-Timonium, Maryland 21093		BOARD OF OFAPPEALS
	*	
RE: Appeal of Fence waiver to retain a 7 foot		OF
high plastic fence less than 2 feet from	*	
the property line, in lieu of the 6 foot height		BALTIMORE COUNTY
allowed by Part 122.1 of the Baltimore	*	
County Building Code		Case No. CBA-15-008
	*	

\* \* \* \* \*

**ORDER ON MOTION FOR RECONSIDERATION**

This case was originally heard by the Board of Appeals of Baltimore County (the “Board”) on March 24, 2015 as a result of an appeal filed by Dr. Svetlana Savchenko (the “Appellant”) of the January 8, 2015 decision of the Administrative Law Judge (the “ALJ”) in which Sidney and Jean Silber (the “Applicants”) were granted a fence waiver (the Waiver”). The Waiver granted the Applicants the right to retain a 7 foot high plastic deer fence less than 2 feet from the property line as well as an 8 feet high metal fence and gate less than 4 feet from the same property line, in lieu of the six (6) feet height allowed by part 122.1(2) of the Baltimore County Building Code. The March 24, 2015 hearing before the Board was scheduled to begin at 10:00 a.m.

**DISCUSSION**

On March 24, 2015 at 10:15 a.m., the Board convened to hear the Appellants appeal; however, neither the Appellant nor anyone on her behalf appeared at the hearing. On the record, Douglas Silver, Esquire, Counsel for the Applicants, moved to dismiss the appeal. The Board noted that the Notice of the hearing date and time were mailed to the Appellant’s correct address and was not returned, the Board granted the Appellants’ motion to dismiss. In an Order of Dismissal dated April 7, 2015, the Board dismissed the Appellant’s appeal with prejudice and upheld the decision of the ALJ granting the Waiver.

On April 7, 2015, the Board received a letter from the Appellant, dated April 2, 2015, requesting that her "case be reopened and rescheduled". In this letter, the Appellant stated:

I did not have a chance to appear in front of the appeal board as I was not informed about the date of the hearing by mail, by phone or e-mail. I learned about the appeal held on March 24, 2014 without my presence from the third party inquiring into the process/results of the hearing.

The Appellant's April 2, 2015 letter did not offer any other reason or explanation why the Board should reopen and reconsider her appeal other than she was not informed about the hearing date.

In the March 24, 2015 hearing, the Board found that the Notice of the date and time of hearing was properly addressed and mailed to appellant at her current address and that said notice was not returned. Generally, there is a well-established presumption that mail, properly addressed, stamped and mailed raises a presumption that it reached its destination at the regular time and was received by the person to whom it was addressed. *Kolker v. Biggs*, 203 Md. 137 (1953). The representations in her April 2, 2015 letter that she did not receive the Notice of the date and time of the hearing are not persuasive. As such, the Board concluded that the Appellant received the notice and did not attend the hearing.

Rule 10 of the Rules of Practice and Procedure of County Board of Appeals ("Rule 10") states:

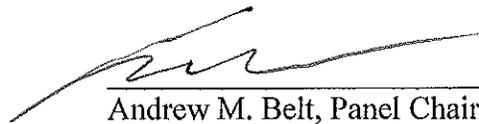
A party may file a motion for reconsideration of an order of the board of appeals. The motion shall be filed within thirty (30) days after the date of the original order. The motion shall state with specificity the grounds and reasons for the motion. The filing of a motion for reconsideration shall stay all further proceedings in the matter, including the time limits and deadlines for the filing of a petition for judicial review. After public deliberation and in its discretion, the board may convene a hearing to receive testimony or argument or both on the motion.

The Appellant's April 2, 2015 letter did not provide any grounds or reasons for filing the motion for consideration other than non-receipt of the notice.<sup>1</sup> On April 30, 2015, the Board publically deliberated the Appellant's motion for reconsideration and based upon the foregoing discussion, the Board denies said motion.

**IT IS THEREFORE ORDERED** this 24~~th~~ day of July, 2015 by the Board of Appeals for Baltimore County that the Appellant's motion for reconsideration is denied.

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through Rule 7-210 of the Maryland Rules.

**BOARD OF APPEALS  
FOR BALTIMORE COUNTY**

  
Andrew M. Belt, Panel Chairman

  
Benfred B. Alston

David Thurston was a Panel member at the hearing on March 24, 2015 and public deliberation on April 30, 2015. He resigned from the Board effective June 16, 2015.

<sup>1</sup> Although the Appellant's letter was not presented in the form of motion for reconsideration, the Board customarily treats these types of letters as a motion for reconsideration.