

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building  
100 Maryland Avenue, Suite 217  
Rockville, Maryland 20850  
(240) 777-6600  
<http://www.montgomerycountymd.gov/boa/>**

**Case No. A-6725**

**PETITION OF ROBERT KIRCHIRO**

**OPINION OF THE BOARD  
(Opinion Adopted December 8, 2021)  
(Effective Date of Opinion: December 15, 2021)**

Case No. A-6725 is an application for a variance needed to allow enclosure of an existing carport into a garage. The proposed construction requires a variance of eight (8) feet as it is within six (6) feet of the left lot line. The required setback is fourteen (14) feet, in accordance with Section 59-4.4.8.B.2 of the Zoning Ordinance.

Due to COVID-19, the Board of Appeals held a remote hearing on the application on December 8, 2021. All participation was done through Microsoft Teams. Petitioner Robert Kirchiro participated in support of the requested variance.

Decision of the Board: Variance **GRANTED**.

**EVIDENCE PRESENTED**

1. The subject property is Lot 20, Block E, Stratton Woods Subdivision, located at 9720 Corkran Lane, Bethesda, Maryland, 20817, in the R-90 Zone. It is a five-sided lot located on the west side of Corkran Lane. The subject property is narrower at the front than it is at the rear, and deeper than it is wide. See Exhibits 4 and 8.
2. In 1988, in Case No. A-2129, the Board granted a variance to permit the construction of the existing carport. See Exhibit 7. In granting that variance, the Board noted the following:

The carport would be architecturally integrated into the existing house and would be used by the applicant's family for automobile protection. Materials to be utilized would harmonize with those of the existing home. Due to the siting of the house

and the location of an existing concrete slab at the end of the driveway, the carport as proposed is the only practical location.

Mr. Saah [the Petitioner in Case No. A-2129] stated that there are other carports and garages in the neighborhood. He further stated that he will have gutters and downspouts on the carport and the water runoff pattern will not change.

The appellant's [Petitioner's] neighbors support the instant application as indicated by testimony of the applicant. No evidence in opposition was adduced. The applicant was of the opinion that the carport would increase the utility and value of the residence, and, coincidentally, would benefit neighboring home values.

3. The Justification Statement ("Statement") states that the Petitioner has owned this property since 2015, and that the carport he is seeking to enclose was already in place when he purchased the property. The Statement states that the requested variance is the minimum needed to enclose the existing carport, noting that "[b]ecause the existing carport variance has already been approved and was built in 1988, no structural changes are proposed by petitioner," that the "[e]levation and dimensions of the carport will remain the same. Nothing will change relative to the elevation, dimensions and footprint," and that the "[b]oundaries and setbacks will remain exactly the same as they are now." The Statement explains that the proposed construction entails enclosure of the existing carport by adding a "non-load bearing wall on the south side and a non-load bearing garage door, enclosing the entrance of the existing carport." See Exhibit 3.

4. The Petitioner's variance application states that "[t]here are other architecturally integrated carports & garages that exist in the neighborhood." See Exhibit 1. His Statement notes that "many other homes in the neighborhood already have garages and enclosed carports," and that enclosure of the existing carport into a garage "conforms and matches other homes in the neighborhood who have also enclosed their carports," "matches the existing local architecture," and is "in keeping with the pattern of other homes with garages in the neighborhood." See Exhibit 3.

5. The Statement states that the enclosure of the Petitioner's carport into a garage will not adversely affect neighboring property owners because "[e]nclosing the carport utilizes the same dimensions, elevations and existing footprint of the existing carport." The Statement further indicates that the Petitioner has discussed the proposed construction with adjacent property owners, and they have no objection. See Exhibit 3.

6. The Statement states that the requested variance is the minimum required to enclose the existing carport, and that such enclosure is needed to ensure that the Petitioner can safely enter and exit his home. The Statement includes descriptions and evidence of incidents that have occurred that cause the Petitioner concern for his safety. See Exhibit 3.

7. At the hearing, the Petitioner testified that the radio tower field behind his house is being developed. He testified that after personal property was stolen from his shed, he enclosed his carport into a garage to prevent additional losses. He testified that the

carport was built pursuant to the grant of a variance, and that he did not realize a new variance would be needed to enclose it. The Petitioner testified that the footprint of the (now enclosed) garage is the same as the footprint of the carport. Referring to Exhibit 5(b), which shows the existing state of the garage, the Petitioner testified that he had added the wall on the side and that a friend had installed the garage door on the front. He testified that other neighbors have done similar things, that the resultant garage looks nice, and that he would like permission to keep it.

## CONCLUSIONS OF LAW

Based on the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-7.3.2.E, as follows:

1. *Section 59-7.3.2.E.2.a - one or more of the following unusual or extraordinary situations or conditions exist:*

*Section 59-7.3.2.E.2.a.i. - exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;*

Based on the Site Plan and Zoning Vicinity Map, the Board finds that the subject property has an unusual five-sided shape, distinct from neighboring properties, and that it is narrower at the front than it is at the rear. The Board finds that this constitutes a unique condition, peculiar to this property, in satisfaction of this element of the variance test. See Exhibits 4 and 8.

*Section 59-7.3.2.E.2.a.v. - the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;*

In Case No. A-2129, the Board highlighted the applicant's testimony that "there are other carports and garages in the neighborhood." This is consistent with the Petitioner's Statement in the instant case, which indicates that "[t]here are other architecturally integrated carports & garages that exist in the neighborhood," that "many other homes in the neighborhood already have garages and enclosed carports," and that enclosure of the existing carport into a garage "conforms and matches other homes in the neighborhood who have also enclosed their carports," "matches the existing local architecture," and is "in keeping with the pattern of other homes with garages in the neighborhood." See Exhibit 3. Based on the foregoing, the Board finds that the enclosure of the Petitioner's carport into a garage would substantially conform with the established or historic development pattern of this street or neighborhood, in satisfaction of this element of the variance test.

2. *Section 59-7.3.2.E.2.b. the special circumstances or conditions are not the result of actions by the applicant;*

Based on the Statement, the Board finds that the Petitioner purchased this property in 2015, and is not responsible for the shape of the subject property or for the development pattern in the neighborhood, in satisfaction of this element of the variance test.

3. *Section 59-7.3.2.E.2.c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;*

The Board finds that full compliance with the Zoning Ordinance would preclude the Petitioner from being able to enclose his carport, consistent with the established or historic pattern in his neighborhood, and thus causes the Petitioner a practical difficulty. The Board further finds, per the Statement, that the requested variance is the minimum needed to allow enclosure of the existing carport "utiliz[ing] the same dimensions, elevations and existing footprint of the existing carport." The Board notes that the existing carport was constructed pursuant to the grant of a variance, and that its proposed enclosure entails the addition of two non-load bearing walls (one with the garage door). Thus the Board finds that the grant of the requested variance is the minimum necessary to overcome the practical difficulty experienced by the Petitioner in being able to comport with the neighborhood pattern, and to allow the enclosure of the existing carport into a garage, in satisfaction of this element of the variance test. See Exhibit 3.

4. *Section 59-7.3.2.E.2.d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and*

The Board finds that allowing the Petitioner to proceed with the proposed construction is consistent with the residential uses contemplated by the North Bethesda/Garrett Park Master Plan, which seeks to "protect and reinforce the integrity of existing residential neighborhoods."

5. *Section 59-7.3.2.E.2.e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*

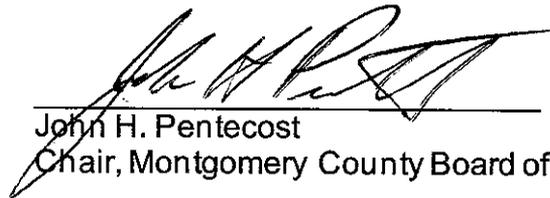
The Board finds that the proposed construction will not be adverse to the use and enjoyment of abutting or confronting properties. In support of the finding, the Board notes, in accordance with the Statement and Site Plan, that the Petitioner is not seeking to increase the size of the existing carport, but rather is seeking to enclose the existing structure with non-load bearing walls. The Board further notes that the resultant garage will not encroach any closer to the left side line than the existing carport structure, and that there are many other homes with garages in the neighborhood. Finally, the Board notes, per the Statement, that the Petitioner has discussed his proposal with his adjacent neighbors, and that they have no objections.

Accordingly, the requested variance needed to allow the proposed enclosure of an existing carport into a garage is **granted**, subject to the following conditions:

1. Petitioner shall be bound by the testimony and exhibits of record; and
2. Construction shall be in accordance with Exhibits 4 and 5(b).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Mary Gonzales, with Bruce Goldensohn, Vice Chair, Richard Melnick, and Caryn Hines in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



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John H. Pentecost  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 15th day of December, 2021.



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Barbara Jay  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-7.3.2.G.1 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.