

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5685

PETITION OF SITA AND MANIKONDA V. SASTRY

(Hearing held December 5, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, January 4, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioners propose to construct a two-car garage that requires a four (4) foot variance as it reduces the sum of both side yards to twenty-one (21) feet. The required sum of both side yards is twenty-five (25) feet.

The subject property is Lot 26 and Part of Lot 25, Block 18, Regency Estates Subdivision, located at 11820 Milbern Drive, Potomac, Maryland, in the R-90 Zone (Tax Account No. 00103706).

Decision of the Board: Requested variance **denied.**

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to enclose and expand the existing carport into a two-car garage. See, Exhibit No. 11.
2. The petitioner testified that the houses in his neighborhood were built in the 1960s and 70s and that he has resided in the home since 1975. The petitioner testified that the original houses did not have garages and that several neighboring homeowners have now built garages.
3. The petitioner testified that Milbern Drive is a very narrow street and that parking on the street is very limited. The petitioner testified that he lives near a school, and that when there are activities at the school, residents are not always able to find parking on the street. The petitioner testified that a tree located in the southern side yard, opposite the side where the petitioner proposes the enclosed garage, prevents new construction in this area.
4. The petitioner testified that he has spoken with his neighbors and that the neighbors support the variance request. A petition of support from the adjoining and confronting neighbors was entered into the record as Exhibit No. 9(a).

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no peculiar topographical or other exceptional conditions distinct from those of the neighboring properties. The Board further finds that the petitioner's lot is similar in size and shape to the neighboring properties in the immediate vicinity (See, Exhibit No. 7).

Therefore, the petition does not meet the requirements of Section 59-G-3.1(a), the Board does not need to consider the other requirements for granting a variance. Accordingly, the requested variance of four (4) feet from the required twenty-five (25) foot sum of both side yards setback for the construction of a two-car garage is denied.

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.

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Donna L. Barron, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 4th day of January, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). 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.