

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

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

**Case No. A-5695**

**PETITION OF DANA VENTIMIGLIA**

(Hearing held December 19, 2001)

**OPINION OF THE BOARD**

(Effective date of Opinion, January 18 , 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 Sections 59-C-1.323(a) and 59-B-3.1. The petitioner proposes to construct a covered porch that requires a 4.5 foot variance as it is within 17.5 feet of the front lot line. The required setback is twenty-two (22) feet.

Mr. Ventimiglia appeared with his agent, Jay Reese, at the public hearing.

The subject property is Lot 2, Block 5, Meadowbrook Village Subdivision, located at 7805 Chelton Road, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 756567630).

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

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes to construct an 8 x 20 foot covered front porch. The covered porch would extend along the front of the residence as shown on Exhibit Nos. 4 and 5(b).
2. Mr. Reese testified that the petitioner's lot is shallow. Mr. Reese testified that the house sustained significant fire damage and that as result of the reconstruction, the front entrance was moved from the side to the front of the residence.
3. The petitioner testified that the covered porch would enhance the view of the residence and would provide shelter from the rain and snow. The petitioner testified that the northern side of the property is at a lower elevation and that steps are required to enter the residence from that side of the property. The petitioner further testified that he has spoken with his neighbors and the neighbors had no objections to the requested variance.

**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 lot has no peculiar topographical or other conditions that impact the property. The Board finds the petitioner's lot is similar in shape and size to the nearby properties on the same street. See, Exhibit No. 8.

The Board notes that the property has a slope at the northern side yard, but that the slope in that area has no material impact on the construction proposed for the front of the residence and in the southern side yard.

As the petitioner has failed to meet the first requirement of Section 59-G-3.1 of Montgomery County Zoning Ordinance for the grant of a variance, the Board did not consider the other standards found in that section. Accordingly, the requested variance of 4.5 feet from the required twenty-two (22) foot front lot line setback for the construction of a covered porch 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 Allison Ishihara Fultz, seconded by Louise L. Mayer, with Donna L. Barron, Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

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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 18th day of January, 2002.

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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 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 Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

