

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5727

PETITION OF SHANNON M. CAVIN

(Hearing held March 6, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, May 2, 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-1.326(a)(2)(a). The petitioner proposes to construct a carport that requires a fifty-five (55) foot variance as it is within five (5) feet of the front lot line. The required setback is sixty (60) feet.

The subject property is Lot 6, Block 25, Bel-Pre Woods Subdivision, located at 13812 LoRee Lane Rockville, Maryland, in the R-60 Zone (Tax Account No. 01380556).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner testified that the existing 19 x 19 foot carport is located in the front yard and that he constructed the carport without knowledge of the required front yard setback for his zone.
2. The petitioner testified that the carport is located on an existing concrete pad and that this area is the only relatively flat area on the lot. The petitioner testified that the structure is light and airy and does not obstruct the view for the neighboring properties. See, Exhibit No. 5(a).
3. The petitioner testified that the topography in the rear yard is steeply sloped and that the carport could not be built in this area. The petitioner testified that the construction of a carport in the rear yard would also require the removal of the existing trees and shrubbery and would eliminate a major portion of the property's green space.
4. The petitioner testified that the activity from a structure in the northern side yard would disturb the neighbor that adjoins his property in this area.

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 petitioner's lot has no peculiar topographical or other conditions that are not shared with the neighboring properties and that the property is similar in size and shape to the other properties in the neighborhood, as shown on Exhibit No. 7

(zoning vicinity map). The Board notes that a carport structure could be located on the property without the necessity of a variance and that the property's existing conditions do not prevent a carport from being located in another area of the lot.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of fifty five (55) feet from the required sixty (60) foot front lot line setback for the construction of a carport 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 be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Donna L. Barron, Angel M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following 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 2nd day of May, 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