

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

<http://www.montgomerycountymd.gov/boa/>

**CASE NO. A-6544**

**PETITION OF CHARLES D. RESSIN**

**OPINION OF THE BOARD**

(Opinion Adopted February 21, 2018)  
(Effective Date of Opinion: February 23, 2018)

Case No. A-6544 is an application for a variance needed to allow construction of a sunroom on a new concrete pad. The proposed construction requires a variance of nine (9) feet, as it is within twenty-one (21) feet of the rear lot line. The required setback is thirty (30) feet, in accordance with Section 59-4.4.7.B.2 of the Zoning Ordinance.

The Board held a hearing on the application on February 21, 2018, after the original January 17, 2018, hearing date was cancelled for weather. Petitioner Charles D. Ressin appeared with Joan Ressin at the hearing, in support of the application. They were accompanied by Gerardo F. Perez of Great Day Improvements.

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

**EVIDENCE PRESENTED**

1.     The subject property is Lot 3, Block B, Ashleigh Subdivision, located at 10009 Carter Road, Bethesda, MD, 20817, in the R-200 Zone. The subject property has an area of 22,757 square feet. It is a five-sided lot located on the east side of Carter Road, abutting four other properties. See Exhibits 1(a), 4, and 7.

2.     The Justification Statement states that the house is approximately 40 feet from the front property line, and that "[t]he current property lines surrounding this house are arranged in an unusual shape with a sharp angle near the home, preventing practical and reasonable use of the yard." It further states that the "configuration of the subject property is not shared by others in the vicinity," and that "[t]he subject property's rear property line has exceptional shallowness" such that "[b]ecause of the unusual angled property line,

using the angled property line as a rear lot line precludes the practical use of the area on a major part of the property near the house, hence the need for the request to modify the rear yard setback." See Exhibit 3.

3. The Justification Statement describes the existing dwelling on the subject property as a one-story, single-family home built in 1965. It states that the proposed sunroom will be built on a new 21' x 15' concrete pad and will be attached to the existing home. The Justification Statement further states that "[a] variance is requested for relief from the 30' rear yard setback to allow the 9' encroachment, thereby reducing the setback to 21' due to the fact the rear property line comes in at a sharp angle in relation to the existing home." See Exhibit 3. This angle can be seen on the site plan. See Exhibit 4.

4. With respect to the impact of the proposed construction on neighboring properties, the Statement of Justification notes the following:

- The proposed enclosure will be in character with the existing structures on the lot and will in no way adversely affect the integrity of the subject property.
- The property is backed up to a wooded lot and tall laurel bushes are planted creating privacy screening along the property line that hides the house behind, except for the top of the second story and the roof.
- The proposed enclosure will be harmonious with the existing structures on the subject property, as it will be directly attached to the side of the home and the framing of the proposed structure will match the color of the existing house. The proposed enclosure will in no way affect the existing vegetation or trees of the property.
- The proposed enclosure will not adversely impact the use or enjoyment of any neighboring properties in regard to issues such as noise, light, air, erosion and storm water run-off.

See Exhibit 3.

5. In response to Board questions, Mr. Perez testified at the hearing that the existing screened porch would be removed, and that the proposed enclosure would extend farther to the north than the existing structure. See Exhibit 4. He testified that the proposed enclosure would be oriented the same way as the existing structure, although it would have a gable roof rather than a slant roof. Ms. Ressin testified that the gable roof will run parallel to the existing roof, and confirmed that the proposed enclosure would be a three-season room with sliders and screens.

## **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;

The Board finds that the subject property has a unique five-sided shape with a sharply angled rear lot line that constrains the ability to expand this home while still meeting the required setbacks. The Board finds that these circumstances constitute an extraordinary condition that is peculiar to this property. See Exhibits 3 and 4.

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

The Board finds that the Petitioner is not responsible for the five-sided shape of this property, or for its sharply angled rear lot line.

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 the requested nine (9) foot variance is the minimum necessary to overcome the onerous development constraints that would otherwise be imposed on this property by the Zoning Ordinance due to its unusual shape and sharply angled rear lot line.

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 Potomac Subregion Master Plan (2002).

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.

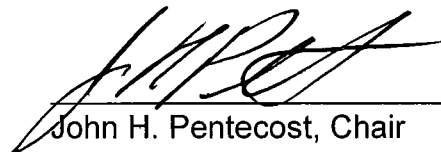
The Board finds that the proposed sunroom addition will not be adverse to the use and enjoyment of abutting or confronting properties. In support of the finding, the Board cites the Justification Statement for its assertions that the proposed enclosure will be in character with the existing structures on the lot, that the property backs up to a wooded lot and tall laurel bushes are planted creating privacy screening along the property line, that the framing of the proposed structure will match the color of the existing house, that the proposed enclosure will in no way affect the existing vegetation or trees on the property, and that the proposed enclosure will not adversely impact the use or enjoyment of any neighboring properties in regard to issues such as noise, light, air, erosion and storm water run-off.

Accordingly, the requested variance of nine (9) feet from the rear lot line setback 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(a)-(b).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Edwin S. Rosado, Vice Chair, with Stanley B. Boyd, Bruce Goldensohn, and Katherine Freeman 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 23rd day of February, 2018.



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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.