

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

**Case No. A-6764  
PETITION OF DR. IRFANA ALI AND MR. MOHAMMED GHADYALI**

**OPINION OF THE BOARD  
(Opinion Adopted September 28, 2022)  
(Effective Date of Opinion: October 12, 2022)**

Case No. A-6764 is an application for a variance needed for the proposed construction of a single family dwelling. The proposed construction requires a variance of 30.8 feet from the required 150 feet of the lot width at the front building line, in accordance with Section 59.4.4.4.B.1 of the Montgomery County Zoning Ordinance.

The Board of Appeals held a remote hearing on the application on Wednesday, September 28, 2022, using Microsoft Teams. Petitioner Mohammed Ghadyali Ahmad Virk participated in support of the requested variance; Dr. Irfana Ali was also present. They were assisted by Casey Cirner, Esquire, and Laura Tallerico, Esquire. In addition to Petitioner Ghadyali, counsel called Michael A. Norton, PLA, and Daniel Demeria as expert witnesses.

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

**EVIDENCE PRESENTED**

1. The subject property is Lot 7, Block 1, Falconhurst Subdivision, located at 9320 Belle Terre Way in Potomac, Maryland, 20854, in the RE-2 Zone. It is an undeveloped lot, 2.03 acres in size, with 96.32 feet of frontage on the northwest side of Belle Terre Way. Per the Petitioners' Statement of Justification and Statement in Support of Variance ("Statement"), the subject property has an "irregular funnel shape that narrows towards Belle Terre Way." See Exhibits 1 and 3.

2. The Petitioners are seeking to construct a new house, approximately 8,600 square feet in size, on the subject property. The Statement indicates that the placement of the proposed house was "dictated by the Property's environmental features, its

unique shape, size, topography and the existing development pattern along Belle Terre Way.” It notes that if the house were placed such that the lot width at the front building line was 150 feet, as required by the Zoning Ordinance, the Petitioners’ home would be located 166.5 feet back from Belle Terre Way, would “effectively be situated in the rear yards of the adjacent homes” to the east and west of the subject property, and would have no usable rear yard “due to the Property’s sensitive environmental features.” See Exhibit 3.

3. The Statement states that “all of the developed properties along Belle Terre Way are improved with single-family detached homes averaging approximately 10,500 square feet on lots exceeding 2 acres.” The Statement further states that “[t]he median setback of homes along Belle Terre Way is 101.2 feet from the right-of-way *without substantial upward deviation from this median* (emphasis added),” and that this “effectively creates an established building line (“EBL”) that naturally defines a cohesive development pattern along Belle Terre Way.” The Petitioners provide a Development Pattern Exhibit supporting their contention and illustrating the effective EBL. See Exhibits 3 and 14(g). In light of the foregoing, the Statement asserts that the size of the Petitioners’ proposed home is consistent with other homes in the neighborhood, despite its lacking certain features of those homes such as living space above the garage, and that the proposed placement of the Petitioners’ home, at 84.5 feet from Belle Terre Way,<sup>1</sup> is “consistent with the effective EBL defining the development pattern along Belle Terre Way.” See Exhibit 3.

4. The Statement distinguishes the size and shape of the subject property from that of surrounding properties, noting that the subject property “narrow[s] towards Belle Terre Way at a rate and to a degree that the vast majority of other properties along the street do not,” and that while three other lots on Belle Terre Way have frontage that equals or is less than the frontage of the subject property, those properties “are larger in overall size (2.6 acres), are located along the arc of the cul-de-sac, and therefore widen to a greater degree closer or at the same distance to Belle Terre” as the subject property. The Statement notes that “[t]his allows homes to be constructed on two of the three lots in a manner that meets the 150-foot minimum lot width at front building line requirement in conformance with the EBL. The only exception is the single pipestem lot (9317 Belle Terre Way), which was intentionally designed to site a home in a location that will not be visible from Belle Terre Way.” See Exhibit 3.

5. The Statement details the environmental constraints that exist on the subject property, and notes that these constraints preclude development on approximately two-thirds of the lot, as follows:

As shown on the Existing Conditions Plan, the Property is currently unimproved and largely wooded. The Property has approximately 1.85 acres of forest cover<sup>2</sup>

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<sup>1</sup> The Statement notes that if the variance is granted, the Petitioners’ home, while not meeting the lot width at the front building line, will meet the 50 foot setback required from the front lot line.

<sup>2</sup> Section 22A-4(b) of the Montgomery County Code subjects to the Forest Conservation law “a person required by law to obtain approval of a...sediment control permit on a tract of land 40,000 square feet or

and a stream that runs the width of the Property towards its rear. The stream is protected by a platted 100-year flood plain surrounded by a 25' building restriction line and a stream buffer. (See Record Plat). Steep slopes exist southeast of the stream on the Property towards Belle Terre Way. These steep slopes prompt the further expansion of the stream buffer on the Property to 125 feet under the applicable<sup>3</sup> *Guidelines for Environmental Management of Development in Montgomery County (2021)* ("*Environmental Guidelines*"). *Environmental Guidelines* p. 7; §§ 22A-4 and 22A-5(a)(2); COMCOR 22A.00.01.11.B.3. As a result, the flood plain, stream and its buffer encumber approximately 1.36 acres of this 2.03-acre Property – just under two-thirds of the Property.

See Exhibit 3. These constraints are graphically shown on the Petitioners' assorted site plans. See Exhibits 4(a)-(h). The Statement proceeds to note that "[a]s illustrated on the Site Constraints Exhibits," the proposed placement of the Petitioners' house "completely avoids the approximate 1.36-acre stream buffer, steep slopes and flood plain and only minimally encroaches into the 20-foot stream buffer setback recommended by Maryland-National Capital Park & Planning Commission (M-NCPPC) staff."<sup>4</sup> The Statement notes that the proposed placement "will also allow for a modest rear yard that is wholly outside the stream buffer." See Exhibits 3 and 4(a)-(h).

6. The Petitioners' Statement explains that their application satisfies three different prongs of the "uniqueness" test found in Section 59.7.3.2.E.2.a of the Zoning Ordinance. See Exhibit 3. With respect to Section 59.7.3.2.E.2.a.i, the Statement states that:

Multiple unusual or extraordinary situations or conditions peculiar to the Property exist that justify the requested variance relief. First, the Property has an exceptionally irregular and narrow shape. The Property has a funnel shape that narrows to 96.23 feet at Belle Terre Way. This is exceptional for a lot that is not situated around the Belle Terre Way cul-de-sac terminus. See Record Plats. In addition, at 2.03 acres in size, the Property is one of the smaller lots along Belle Terre Way, which further contributes to the inability to achieve an expansive lot width closer to Belle Terre Way. *Id.* In fact, the vast majority of the other properties along Belle Terre Way are larger and do not narrow<sup>5</sup> to the same

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larger, and who is not otherwise required to obtain an approval under subsection (a)." However, certain exemptions to submitted a forest conservation plan are available under various circumstances. See Section 22A-5(a)(2), Montgomery County Code.

<sup>3</sup> Section 22A.00.01.11.B.3 of the Code of Montgomery County Regulations require that a request for an exemption under Section 22A-5 includes "a Natural Resources Inventory, or Natural Resources Inventory/Forest Stand Delineation if forest is proposed to be removed, prepared per Section 22.00.01 and the guidelines in the latest version of Guidelines for Environmental Management of Development in Montgomery County, Maryland (MNCPPC).

<sup>4</sup> M-NCPPC staff allows for minimal intrusions into the recommended 20-foot stream buffer setback. Such an encroachment was allowed on the northeast-adjacent property.

<sup>5</sup> The Board of Appeals in its September 26, 1988 Opinion of the Board in Case Nos. A-2267 and A-2268 granted a 33-foot variance from the 50-foot front yard setback at the properties located at 9300 and 9301 Belle Terre Way (at the intersection of River Road and Belle Terre Way) for construction of the subdivision

degree or at the same rate as the Property. *Id.* The result of these unusual and extraordinary situations and conditions is that the point at which the width of the Property reaches 150 feet (the required minimum lot width at front building line) is further from Belle Terre Way than for nearly all of the other Properties along Belle Terre Way.

With respect to Section 59.7.3.2.E.a.iii of the Zoning Ordinance, regarding environmentally sensitive features, the Statement indicates that the Petitioners' variance application also satisfies this prong of the uniqueness test, as follows:

Second, the proposed development contains environmentally sensitive features and buffers. As shown on the Site Constraints Exhibits, the stream buffer, which now includes the steeply sloping topography, 100-year flood plain and 300 linear feet of stream, covers nearly two-thirds of the Property. This includes an expanded stream buffer width that results from the codification of more stringent environmental regulations since the Property was subdivided in 1987.

For instance, as reflected on the Site Constraints Exhibits and the Record Plat, as platted in 1988, the stream buffer covered only 0.64 acres of the Property. However, applying the County's current *Environmental Guidelines*, as required for development of the Property, the stream buffer area has increased to approximately 1.36 acres due to the expanded buffer widths and requirement to capture steep slopes on the Property within the buffer. In addition, M-NCPPC has a policy to impose an additional 20-foot setback from the stream buffer to establish an unencumbered area along the stream buffer to facilitate any work that needs to be performed around the adjacent perimeter of a home. Although this recommended setback is somewhat flexible, at a maximum, it will encumber an additional 3,243 square feet of the Property.

Finally, the Petitioners' Statement states that their application satisfies the final prong of the uniqueness test, pertaining to the development pattern, that is found in Section 59.7.3.2.E.2.a.v of the Zoning Ordinance:

Finally, the proposed development substantially conforms with the established historic and traditional development pattern along Belle Terre Way. Specifically, Petitioners are proposing to site their home according to the effective EBL along Belle Terre Way that has been established over 32 years of development along Belle Terre Way. As noted above, homes along Belle Terre Way have median setback of 101.2 feet. Most homes do not substantially deviate upward from this median. Petitioners are proposing to set their home back approximately 84.5 feet from Belle Terre Way in accordance with this EBL. Were the Petitioners required to situate their house where the minimum lot width at its front building line is 150 feet, the front setback would be 166.5 feet – a substantial deviation

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entrance gate features. It is noteworthy that the Board's basis for granting the variance was the narrowness of said properties, which have approximately 136 feet of frontage along Belle Terre Way. Compared to the Property, this is approximately 40 more feet of frontage along Belle Terre Way.

from the historic development pattern along Belle Terre Way for a property that is not a pipestem lot and is not located along the arc of the cul-de-sac.

The Petitioners' Development Pattern Exhibit illustrates this point. See Exhibit 14(g).

7. The Statement indicates that the property was subdivided and platted in 1987, and that the Petitioners purchased it in 2022. Accordingly, the Statement states that the Petitioners are not responsible for the shape of the property or its environmental features. The Statement further notes that the fact that "the extent to which the buffer constrains the buildable area of the Property has increased through changes in the regulations" is "no fault of the Petitioners." See Exhibit 3.

8. The Statement states that the requested variance is the minimum needed to overcome the practical difficulties that full compliance with the Zoning Ordinance would impose due to the uniqueness of this property. The Statement states that as shown on the Site Constraint Exhibits, "applying the minimum lot width requirement in addition to the other RE-2 zone setbacks, stream buffer and stream buffer setback would leave a buildable area of 5,020 feet located in close proximity to the stream buffer," and that construction in this area would "leave little to no room for a rear yard outside the stream buffer." See Exhibits 3 and 4(a)-(h).

The Statement further notes that compliance with the 150-foot lot width requirement would force the Petitioners to build their house behind the homes of their adjacent neighbors, at a setback that is "inconsistent with the effective EBL." The Statement concludes that "any house constructed within [the otherwise allowable] building envelope, and served by a driveway, would be of a size and shape incompatible with the existing houses within the neighborhood," and that it is necessary to "place the house where proposed - along the effective EBL and well outside the stream buffer," since this would allow the Petitioners' house "to conform to the existing development pattern and to have a rear yard outside the stream buffer." The Statement notes that the "Petitioners have even angled the house in a manner that is compatible with the existing development pattern to maximize the width at the front line," and that they have "also refrained from adding living space over the garage to minimize the use of the Variance area." See Exhibit 3.

9. The Statement indicates that the requested variance can be granted without substantial impairment to the intent and integrity of the general plan and applicable Master Plan, noting that "[t]he Petitioners propose to place their home in an ecologically sensitive manner," and that the proposed construction "protects existing forest on the Property and removes the house further from the stream buffer." With respect to the protection of existing forest, the Statement states that "[t]he forest on the Property is identified as a forest preservation priority on Foldout Map F," and that granting the requested variance "will allow for placement of the proposed home closer to Belle Terre Way," which in turn would "limit the amount of forest clearing needed for construction of the Petitioners' home." The Statement notes that "if the home were constructed in full

compliance with the required lot width at front building line, more than 20,000 square feet of forest would need to be cleared." See Exhibit 3.

10. The Statement states that granting the requested variance will not be adverse to the use and enjoyment of neighboring property owners because it "will allow for the Petitioners' home to be constructed in a manner that is consistent with and respectful of the development pattern," specifically stating that granting the variance would allow the home to "be sited in a manner consistent with the EBL along Belle Terre Way contributing to the extant harmonious development pattern." The Statement states that if the variance were to be denied, the Petitioners' home "would need to be setback so far on the Property that it would be to the rear of the adjacent homes intruding upon the privacy of both neighbors," and thus concludes that granting the variance "is necessary to avoid adverse impacts to the use and enjoyment of abutting or confronting properties." See Exhibit 3.

11. Petitioner Mohammed Ghadyali testified that they had three goals in siting their home: first, to minimize the impact on the environment, second, to avoid alienating their neighbors, and finally, to site their home in a manner that was cohesive with their neighbors' homes and the neighborhood. He testified that they had spoken to the neighbors on either side of their proposed home, and that both have submitted letters of support for the requested variance. See Exhibits 7(a)-(b). In response to a Board question asking whether locating their proposed house in compliance with the Zoning Ordinance, such that it would essentially be behind and in the back yards of the flanking homes, would be more problematic for him or for his neighbors, Mr. Ghadyali testified that it would be problematic for both, and that it would impact everyone's day-to-day enjoyment of their properties.

12. At the hearing, Michael Norton was accepted as an expert in site planning, site design, and landscape architecture. Mr. Norton explained the color-coded site plans that he had prepared. He testified that the standard property setbacks are shaded in yellow on Exhibit 4(c); that the area shaded in orange on Exhibit 4(e) shows the platted stream valley buffer from 1987; that the area shaded in blue on Exhibit 4(f) shows where the stream valley buffer was extended due to steep slopes; that the area shaded in red on Exhibit 4(g) depicts the 25-foot setback from stream valley buffers that is applied as a matter of policy by the Planning Department; that the area shaded in purple on Exhibit 4(d) shows the portion of the lot that is rendered unbuildable by the requirement that the lot be 150 feet wide at the front building line; and that the area shaded in brown shows the standard front and side setbacks on the southern portion of the property. He testified that Exhibit 4(g) shows the totality of the constraints on the subject property. See Exhibits 4(a)-(g).

Mr. Norton testified that he wanted to align the Petitioners' proposed house with the other homes in the community, and that he performed a setback study of all the homes on Belle Terre Way. See Exhibit 14(g). He testified that the location proposed for the Petitioners' home limits its environmental impacts, and does not affect the stream valley buffer. Mr. Norton stated that Exhibit 4(h) shows the extensive forest cover on the

property. He testified that they are trying to minimize the extent of forest clearing needed, and that the construction as proposed would necessitate the clearing of less than 20,000 square feet of forest.

Mr. Norton testified that he is also doing work on the abutting property to the east of the subject property, and that the home being constructed on that property is located at a distance of 68 or 69 feet from Belle Terre Way because of the stream valley buffer. He testified that if the Petitioners' proposed house were sited in compliance with the 150-foot lot width requirement, it would be partially in the stream valley buffer, and would be in the rear yard of the house on the lot to the west, 20 feet from the property line shared with that neighbor.

Mr. Norton testified that the subject property has a unique "funnel" shape because of a turn in the street, and that this is causing the issue with the lot width at the front building line. He testified that having the house and driveway forward on the lot keeps the construction at least 20 feet from the stream valley buffer. Mr. Norton testified that if the house were set farther back on the property, they would have to clear more forest. He testified that the proposed house cannot be located any farther to the west, and that the proposed house is very close to the stream valley buffer on the east.

Mr. Norton testified that Exhibit 14(g) depicts the houses along Belle Terre Way and indicates how far back they are set from the street. He testified that the average setback is about 100 feet, and that this establishes the character of the community along Belle Terre Way. Mr. Norton testified that the lots closer to River Road on the west side of Belle Terre Way are basically rectangular in shape, that the subject property is funnel-shaped because of a bend in the road, and that the lots on the cul-de-sac are more pie-shaped, excepting the two pipestem properties. He testified that granting the variance to allow the proposed placement of the Petitioners' home approximately 84.6 feet from Belle Terre Way, where the lot width is 119.2 feet, as opposed to 166.5 feet from Belle Terre Way, where the lot width is 150 feet, maintains the development pattern along Belle Terre Way.

Mr. Norton testified that the applicable Master Plan recommends minimizing imperviousness and maintaining the forest as much as possible to keep it from becoming fragmented. He testified that in his expert opinion, granting the requested variance will advance the Master Plan by reducing forest removal and imperviousness.

13. Daniel Demeria was accepted as an expert in the custom and speculative homebuilding process in Potomac, Maryland. He testified that he had built numerous homes in Potomac, and that he was familiar with Belle Terre Way. Mr. Demeria testified that Belle Terre Way was platted in 1987. He testified that he has worked with the Petitioners to design a house for their property that is the minimum necessary to meet their needs and to fit in with the neighborhood. Mr. Demeria testified that the Petitioners' proposed home achieves these goals and is commensurate with others in the neighborhood. In addition, he testified that the Petitioners' proposed house works with the existing constraints on their property. He testified that the house is attractive

and fits with the streetscape, noting that it neither overbuilds nor underbuilds the neighborhood, and that it will maintain the neighborhood's value. Mr. Demeria testified that the homes on Belle Terre Way are all custom built and are somewhat eclectic. He testified that some were built in the 1980s and 1990s, and that styles have changed over the years. Mr. Demeria testified that the other houses on the street have garage space for at least three cars, and that most have room counts similar to the Petitioners' proposed home. Mr. Demeria testified that granting the requested variance will be beneficial to the flanking homes and to the entire street.

Mr. Demeria testified that the house, as designed, meets all of the Zoning Ordinance restrictions except the 150 foot lot width at the front building line. In response to a Board question asking if he knew the origin of the 150 foot lot width requirement, Mr. Demeria stated that he did not. He testified that other lots on the street were not affected by this requirement because they were wide enough and did not have a funnel shape.

## **FINDINGS OF THE BOARD**

Based on the binding testimony and the evidence of record, the Board finds that the requested variance complies with the applicable standards and requirements set forth in Section 59.7.3.2.E.2, and can be granted, 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 Statement, Site Plans, and the testimony of Mr. Norton, the Board finds that the subject property has an irregular and narrow "funnel" shape that constricts to leave only 96.23 feet of frontage along Belle Terre Way. The Board further finds, again per the Statement, that this is an exceptionally small amount of frontage for a lot that is not situated on the cul-de-sac portion of Belle Terre Way. In addition, the Board finds, based on the Statement, that the subject property is smaller than most of the properties on Belle Terre Way, and has steep slopes. See Exhibits 3 and 4(a). The Board finds that these circumstances, taken together, constitute an extraordinary situation or condition peculiar to this property, in satisfaction of this element of the variance test.

*Section 59.7.3.2.E.2.a.iii. - the proposed development contains environmentally sensitive features or buffers;*

Based on the Statement, Site Plans, and the testimony of Mr. Norton, the Board finds that the subject property contains a stream, a stream buffer that includes steeply sloping topography, and a 100-year flood plain. The Board further finds that these environmental features, taken together, cover nearly two-thirds of the subject property. See Exhibits 3 and 4(a)-(g). In addition, the Board finds that the property is heavily forested. See Exhibit 4(h). Thus the Board finds that the proposed development contains environmentally sensitive features or buffers, in satisfaction of this element of the variance test.

*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;*

The Board finds, based on the Statement, the Development Pattern Exhibit, and the testimony of Mr. Norton, that the median setback of homes from Belle Terre Way is 101.2 feet, and that most homes along this street “do not substantially deviate upward from this median.” The Board further finds that the Petitioners are seeking to place their home at a distance that is consistent with the setback of existing homes on this street. In addition, the Board finds that without variance relief, the Petitioners’ house would have to be setback approximately 166.5 feet from Belle Terre Way, which is substantially farther back from the street than most of the houses, including the adjacent houses to the east and west, behind which the Petitioners’ house would be located if it were to be placed in accordance with the 150-foot required lot width at the front building line. See Exhibits 3 and 14(g). In light of the foregoing, the Board finds that granting the requested variance from the lot width requirement would allow the placement of the Petitioners’ proposed house to substantially conform with the established historic or traditional development pattern of Belle Terre Way, 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 Petitioners purchased the subject property in 2022, and are not responsible for the unique shape and size of the property, which was subdivided and platted in 1987, for its environmentally sensitive features, or for the development pattern in their neighborhood. See Exhibit 3. Accordingly, the Board finds that the special circumstances or conditions are not the result of actions taken by the Petitioner, 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;*

Based on the Statement and the testimony of Mr. Norton, the Board finds that the compliance with the required 150-foot lot width at the front building line poses a practical difficulty for the Petitioners because it would not allow development at a

distance from Belle Terre Way that approximates the distance of the other homes on the street, but would instead push construction back on the property towards the areas of the property where development is limited by environmental constraints. In support of this, the Board notes that environmental constraints at the rear of the subject property render nearly two-thirds of the property unusable, and that the property's unusual shape and small size combine to further limit development of those areas forward of the environmentally sensitive stream buffer, slopes, and flood plain. The Board further finds that the requested variance is the minimum needed to allow the Petitioners to construct a home comparable to others on the street at a distance from Belle Terre Way that is consistent with others on the street, and perhaps most importantly, with the flanking homes to the east and west of the Petitioners' proposed home. See Exhibits 3 and 14(g). In light of the foregoing, the Board finds that the requested variances are the minimum needed to overcome the practical difficulties that full compliance with the Zoning Ordinance would impose, in satisfaction of this element of the variance test.

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;*

The Board finds that the proposed construction of a single family dwelling is consistent with the "Single Family Residential" use contemplated for this area by the 2002 Approved and Adopted Potomac Subregion Master Plan, and in addition, that the proposed development seeks to limit imperviousness and forest removal to the extent possible. Thus the Board finds that the requested variance can be granted without substantial impairment to the intent and integrity of the applicable Master Plan, in satisfaction of this element of the variance test.

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.*

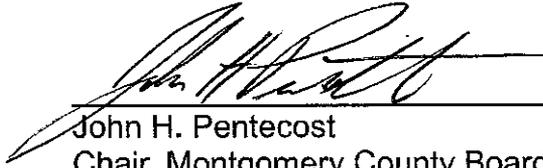
The Board finds, based on the Statement, the letters of support, and the testimony of Mr. Ghadyali and Mr. Norton, that the grant of the requested variance will not be adverse to the use and enjoyment of neighboring properties, in satisfaction of this element of the variance test, because it would allow for the siting of the Petitioners' proposed home at a distance from Belle Terre Way that is consistent with the other homes on the street as opposed to having their house sited behind the flanking houses on either side, thereby intruding on their privacy, and because it would have a lesser impact on the existing forested area. See Exhibits 3 and 7(a)-(b).

Accordingly, the requested variance from the 150-foot minimum lot width at the front building line is **granted**, subject to the following conditions:

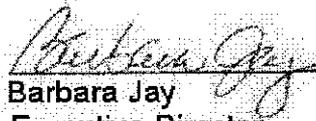
1. Petitioners shall be bound by the testimony and exhibits of record; and
2. Construction shall be in accordance with Exhibits 4(a) and 5(a)-(e).

Based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Caryn Hines, with Richard Melnick, Vice Chair, and Roberto Pinero 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 12th day of October, 2022.

  
\_\_\_\_\_  
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.