

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**100 Maryland Avenue, Suite 217
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(240) 777-6600**

Case No. A-6879

PETITION OF DAVID SNYDER

OPINION OF THE BOARD

(Hearing Held: September 25, 2024)

(Effective Date of Opinion: October 2, 2024)

Case No. A-6879 is an application by Petitioner David Snyder for a variance needed for an existing detached garage. The proposed construction of a rear addition to the Petitioner's house results in his existing detached garage being located in the side yard of his property instead of behind the rear building line of his house. Accordingly, as a result of the proposed construction, the Petitioner's existing garage requires a variance because it is now located forward of the rear building line. Section 59.4.4.10.B.3.a of the Zoning Ordinance requires that accessory buildings like detached garages be sited behind the rear building line of the main house.

The Board of Appeals held a hearing on the application on Wednesday, September 25, 2024. Petitioner David Snyder participated at the hearing in support of the requested variance.

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

EVIDENCE PRESENTED

1. The subject property is Lot 24, Block 17, Pinecrest Takoma Park Subdivision, located at 6812 Westmoreland Avenue in Takoma Park, Maryland, 20912, in the R-40 Zone. It is a rectangular lot, 42 feet wide and 150 feet deep, located on the southwestern side of Westmoreland Avenue. The property has a total area of 6,300 square feet, and contains a 725 square foot bungalow that, per SDAT, was constructed in 1923. See Exhibits 3, 4(a) and 8, and SDAT Printout.

2. The Petitioner's Statement of Justification ("Statement") states that in 2022, he and his wife purchased the subject property, with its 725 square foot bungalow, with an intent to "age in place." The Statement states that the Petitioner and his wife are planning to

add 586 square feet to their home by constructing a rear addition. The Statement states that because of the narrowness of their property, the Petitioner and his wife “do not have sufficient width to build an addition with the needed square footage and therefore need to build a deeper structure to meet that need.” As a result, the Statement states that the proposed addition would “overlap the existing garage by about half of its depth, thereby placing the front half, or approximately 7’, of the garage in the side yard.” The Statement states that the resultant location of the Petitioner’s existing garage in the property’s “new” side yard creates a violation of Section 59.4.4.10.B.3 of the Zoning Ordinance. See Exhibit 3.

3. The Petitioner’s variance Application echoes the impact that the narrowness of the property has on the proposed construction, and on the resultant location of the garage relative to that construction, stating that “[t]he lot is too narrow for it to be possible to fit the required square footage of [the] modest planned addition in the space between [the] existing house and the front of the garage.” In addition, the Application states that the plat of the present subdivision was recorded in 1923. See Exhibit 1.

4. The Statement states that before filing the building permit set for the proposed addition with the County’s Department of Permitting Services in 2024, the Petitioner applied for an Historic Area Work Permit (“HAWP”), which was granted in August of 2023. See Exhibit 3. The Petitioner included a copy of the Historic Preservation Commission’s (“HPC’s”) approval letter with his submission, as well as a copy of the approved plans. See Exhibit 7. The Statement notes that in reviewing the HAWP, “[t]he HPC did not raise any concerns about the configuration of the addition and the garage.” See Exhibit 3.

5. The Statement states that the dimensions of the subject property were established in the 1920s, when the Pinecrest subdivision was laid out. The Statement states that the narrowness of the subject property means that the Petitioner and his wife “do not have sufficient width to build an addition with the needed square footage,” necessitating the construction of a deeper, as opposed to wider, addition. The Statement states that “altering the shape, design and square footage of the planned addition would not allow” the Petitioner and his wife to construct space suitable for one-level living, causing them a practical difficulty, and that the requested variance for the existing garage “is the minimum necessary to overcome the practical difficulties that full compliance” with the Zoning Ordinance would impose. See Exhibit 3.

6. The Statement states that granting the requested variance will not be adverse to the use and enjoyment of neighboring properties. The Statement states that the “location of the existing garage will not change and therefore will not have any different impact on our abutting neighbors.” The Statement notes that the Petitioner and his wife “shared the plans, dimensions, and design for the addition with [their] abutting neighbors at 6810 and 6814 Westmoreland.” The Statement states that all of the neighbors “have been pleased by the design similarities between the existing house and the addition and with the fact that the scale of the addition matches the existing house.” Finally, the Statement states that their neighbors’ houses have had “multiple additions in the past.” See Exhibit 3. The Petitioner includes a “Birds Eye View” showing a three-dimensional modeling of the

Petitioner's house with the proposed addition and the homes on the flanking properties. See Exhibit 4(d).

7. At the hearing, the Petitioner testified that he had spoken with his neighbors, and that none expressed any concerns about the variance request. He testified that his neighbors wondered why the location of the garage—which he testified is not changing—was causing an issue.

FINDINGS OF THE BOARD

Based on the binding testimony and the evidence of record, the Board finds that the requested variance for the existing garage can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59.7.3.2.E.2 of the Zoning Ordinance, 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 and the Site Plan, the Board finds that with a consistent width of only 42 feet wide, the subject property is unusually narrow for the R-40 Zone, which has a minimum width of 60 feet at the front building line. See Section 59.4.4.10.B.2 of the Zoning Ordinance. In addition, the Board finds that with a depth of 150 feet, the subject property is nearly four times as deep as it is wide. Thus the Board finds that when the required setbacks are applied to this property, the resultant buildable envelope is unusually narrow and deep, limiting the area available for expansion of the existing home, and essentially dictating that any extension of the home would be to its rear. The Board finds that these circumstances, taken together, serve to make the subject property unique, 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;*

The Board finds that this property was created in or around 1923, and was purchased by the Petitioner in 2022. Thus the Board finds that the Petitioner took no actions to create the special circumstances or conditions peculiar to this property, 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;*

The Board finds, based on the Statement, that the requested variance is the minimum needed to allow the existing detached garage, which is not being changed by the proposed construction, to remain where it is. The Board finds that the constrained buildable envelope resulting from the application of the required setbacks to this unusually

narrow and long property leaves no area for expansion of the existing house except to the rear, causing the Petitioner a practical difficulty. The Board further finds that because of the subject property's substandard width and narrowness, the Petitioner's proposed addition extends further back on the subject property than an addition of similar size that was constructed in accordance with the required side setbacks would have extended if the subject property had been sixty feet wide, and that it is the unusual narrowness of the property—and the corresponding narrowness of the resultant addition—that causes the proposed addition to extend beyond the front of the Petitioner's existing detached garage, necessitating the requested variance. See Exhibits 3 and 4(a). The Board observes that the narrowness of the property is also likely the reason that the property has a detached, as opposed to an attached, garage in the first place. In light of the foregoing, the Board finds that the requested variance is the minimum needed to overcome the practical difficulty posed by the narrowness of the subject property, 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; and*

The Board finds that the granting the requested variance, needed to allow the garage to remain, unchanged, in its current location, will continue the residential use of this property, consistent with the recommendations of the Takoma Park Master Plan, which recommends preserving the existing residential character, encouraging neighborhood reinvestment, and enhancing the quality of life throughout Takoma Park.

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, that granting the requested variance to allow the Petitioner's garage to stay in its current location, will not be adverse to the use and enjoyment of neighboring properties. As noted in the Statement, the Board finds that the location of the garage is not changing, and thus its impact on the abutting neighbors is not changing. See Exhibit 3. The Board further finds, based on the Statement and the testimony of the Petitioner, that the Petitioner and his wife have discussed the plans for the addition that triggers the need for the requested variance with their abutting neighbors to either side, and that none expressed concerns. See Exhibit 3. The Board observes that these plans have been approved by the Historic Preservation Commission. Finally, the Board notes that despite being properly Noticed and posted, the record contains no opposition to the grant of the requested variance, and no one appeared at the hearing in opposition. In light of the foregoing, the Board finds that granting the requested variance will not be adverse to the use and enjoyment of neighboring properties, in satisfaction of this element of the variance test.

Accordingly, the requested variance, necessary for the existing garage to be located forward of the property's new rear building line, 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(a) and 5(b)-(d), (f), and (m)-(o) (internal layout excluded).

Therefore, based upon the foregoing, on a motion by Alan Sternstein, seconded by Richard Melnick, Vice Chair, with John H. Pentecost, Chair, Caryn Hines, and Amit Sharma 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.


John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 2nd day of October, 2024.


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.

