

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850  
(240) 777-6600  
<http://www.montgomerycountymd.gov/boa/>**

**Case No. A-6886**

**PETITION OF RAMONA GREENE**

**OPINION OF THE BOARD**  
(Opinion Adopted October 23, 2024)  
(Effective Date of Opinion: November 1, 2024)

Case No. A-6886 is an application for a variance needed to allow construction of an addition. The proposed construction requires a variance of 5.33 feet as it is within 19.67 feet of the front lot line. The required setback is twenty-five (25) feet, in accordance with Section 59.4.4.7.C.3 of the Zoning Ordinance.

The Board held a hearing on the application on October 23, 2024. Petitioner Ramona Greene appeared at the hearing in support of the application, assisted by her contractor, Michael Naugler.

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

**EVIDENCE PRESENTED**

1.        The subject property is Lot 4, Block D, Good Hope Estates Subdivision, located at 15401 Wembrough Street in Silver Spring, Maryland, 20905, in the RE-1 Zone.<sup>1</sup> The subject property is a four-sided lot with an area of 11,076 square feet, located on the east side of Wembrough Street. It has a curved (convex) front lot line that follows the curvature of the road, and side lot lines that converge towards the rear of the property.<sup>2</sup> The property's left side is slightly deeper than its right side, resulting in the property's rear lot

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<sup>1</sup> The building permit denial indicates that the property is zoned RE-1 however, based on Plat #9082 dated November 14, 1968, the plat is an approved cluster development and subdivision or re-subdivision.

<sup>2</sup> The Petitioners' variance application describes this succinctly, stating that the "curved street creates angled side property lines." See Exhibit 1.

line also being angled. The right rear portion of the property contains a setback from a flood plain. See Exhibits 4 and 8, and SDAT printout.

2. The subject property was recorded in 1968, and contains a house that was built in 1971. The Petitioner purchased the property in 2005. See Exhibit 1 and SDAT Printout. The Petitioner's Statement of Justification ("Statement") states that the Petitioner "would like to build a 12'x26' addition" on the right side of her house. The Statement explains that "[t]he addition would extend the entire side of the existing house such that it aligns flush with both the front and rear of the home." The Statement states that granting the variance "would allow for the front of the house to be continuous, giving it a more appealing look from the street," and would eliminate a potentially problematic intrusion of the home's front wall into its living room space. See Exhibit 3.

3. The Petitioner's variance Application states that the "curve of the road impedes upon" the proposed addition, and that the Petitioner is seeking a variance from the required front setback so that the proposed addition could be "flush with the front of the home." See Exhibit 1.

4. The Statement states that the curvature of the road in front of the existing house constitutes an unusual feature that makes the subject property unique. The Statement states that while the existing house is set 25 feet back from the front property line, because of the curve of the street towards the right side of the house, and the corresponding curve of the property's front lot line, the "gap between the front of the house and front property line" narrows, creating a hardship for the Petitioner. The Statement notes that the construction of the original house at a distance of 25 feet from the front property line leaves "no room for future expansion on the side where the road curves in toward the house," and that "[t]he house could have been built further back to allow for a future addition off the side that maintains the same depth of the house." Finally, the Statement states that adjacent property owners do not share the hardship posed by the curvature of Wembrough Street, and the resultant curved front lot line, because Wembrough Street "is mostly straight throughout the neighborhood." See Exhibit 3.

5. The Statement states that the requested variance is the minimum necessary to "facilitate[] construction of the new addition to be in line with the existing front face of the house." The Statement states that the proposed addition "will not protrude any closer to the street than [the house] already is." See Exhibit 3.

6. The Statement states that the proposed construction is consistent with the applicable general and Master plans. The Statement states that "[w]ith the new addition to this home, lot coverage of the property is only 17% of the overall lot," and that "[t]he general plan for properties within this neighborhood was to have congruence between homes." The Statement states that congruence means that "no home stands out from one another," and states that "having to push the addition back 5' would not adhere to the style of surrounding homes." See Exhibit 3.

7. The Statement states that granting the requested variance to allow the proposed construction would not be adverse to neighboring property owners because “[t]he side that the addition would be on does not share a property line with another household and has a large gap of forest between properties.” The Statement further states that allowing the addition to be constructed flush with the front of the existing house would also be “more aesthetically pleasing” for neighboring properties, and would “increase the property value of the home.” See Exhibit 3.

8. The record contains a letter of support for the proposed addition, flush with the front of the house, from three of the Petitioner’s closest neighbors. See Exhibit 7.

9. At the hearing, the Petitioner testified that there is parkland to the right of her property (the side where the addition is proposed), as well as across the street from her property. She testified that her neighbors do not object to the proposed construction. The Petitioner testified that there is a creek behind her home where her deck comes down.

10. Mr. Naugler testified that the curvature of the road in front of the Petitioner’s house, and the resultant shape of her lot, causes her a hardship. He testified that the right front corner of the Petitioner’s existing house is set exactly 25 feet from the front lot line, but that because of the curve in the road, the area forward of the home’s front building line gradually narrows on the right side of the house, such that the front right corner of the proposed addition—which would be flush with the front of the existing house—would be just under 20 feet from the front lot line. Mr. Naugler testified that the shape of the subject property differs from neighboring properties because the road is generally straight other than in front of the subject property.

Mr. Naugler testified that the proposed addition will replace an existing deck, and that it will be a single story addition on posts and beams. He testified that the selected location best matches the aesthetics of the home, and that putting the addition on the rear of the house would impact property values and the aesthetics of the neighborhood. Mr. Naugler testified that the Petitioner’s neighbors do not object to the proposed construction. In response to a Board question asking if the proposed construction would impact the flood plain for the creek behind the Petitioner’s home, Mr. Naugler testified that it would not.

## **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 an unusual shape, with a curved front lot line, convergent side lot lines, and an angled rear lot line. In addition, the Board finds that the area forward of the property's front building line narrows with the curvature of the road. Finally, the Board finds that the right rear portion of the subject property is impacted by a flood plain. The Board finds that these factors combine to constrain the ability to expand this home while still meeting the required setbacks. The Board finds that this constitutes an extraordinary condition peculiar to this property, in satisfaction of this element of the variance test. 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, who purchased the subject property in 2005, is not responsible for the unusual shape of the subject property or the adjacent flood plain, 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 that the application of the required setbacks to the subject property results in a constrained buildable envelope arising from the property's curved front lot line and its resultant shape, with angled side and rear lot lines. The Board further finds that the constraints posed by the property's shape are compounded by the presence of a setback from an adjacent flood plain. The Board finds that these conditions limit the Petitioner's ability to expand her home without variance relief, causing her a practical difficulty. The Board further finds that the requested variance, necessary to permit construction of the proposed "flush" addition, is the minimum necessary to overcome the constraints that would otherwise be imposed on this property by strict adherence to the Zoning Ordinance. Accordingly, the Board finds that this element of the variance test is satisfied.

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 granting the requested variance to allow the Petitioner to construct the proposed addition on the right side of her house is consistent with the residential use of this property. Accordingly, the Board finds that this variance can be granted without substantial impairment to the intent and integrity of the applicable Cloverly 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, per the Statement, that granting the requested variance to allow construction of the proposed addition will not be adverse to the use and enjoyment of neighboring properties, in satisfaction of this element of the variance test. The Board finds, based on the Statement, that the right side of the house, where the proposed addition will be built, is bordered by parkland, and that the property confronts parkland as

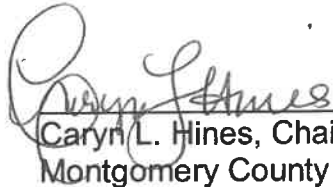
well. See Exhibit 3. The Board further finds that the record contains a letter of support from the Petitioner's neighbors, and that the Petitioner and her contractor have testified that her neighbors do not object to the proposed construction. See Exhibit 7. Finally, the Board finds that the property was properly posted, that the record contains no letters of opposition to the grant of the request variance, and that no one appeared at the hearing in opposition to the requested variance.

Accordingly, the requested variance from the front 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)-(e) (interior floorplans/layouts excluded).

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

  
Caryn L. Hines, Chair  
Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 1<sup>st</sup> day of November, 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.