

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**Case No. A-6909  
PETITION OF TEMPLE SHALOM by PETER HOWARD**

**OPINION OF THE BOARD**

(Hearings Held: April 9, 2025, May 21, 2025, and June 25, 2025)  
(Effective Date of Opinion: July 9, 2025)

Case No. A-6909 is an application by Petitioner Temple Shalom (the "Petitioner" or "Temple") for four variances needed for the proposed construction of two accessory structures (carports/canopies with solar panel arrays). As originally advertised, the proposed construction required the following variances:

1. The proposed construction requires a 13.2 foot variance as it is within 40.8 feet of the rear lot line. The required setback is fifty-four (54) feet, in accordance with Section 59.4.4.9.B.2 of the Zoning Ordinance.
2. The proposed construction requires a 15.8 foot variance as it is within 44.2 feet of the front lot line. The required setback is sixty (60) feet, in accordance with Section 59.4.4.9.B.2 of the Zoning Ordinance.
3. The proposed construction requires a fifty-one (51) foot variance as it is within sixty-four (64) feet of the left side lot line. The required minimum setback is one hundred and fifteen (115) feet, in accordance with Section 59.4.4.9.B.2 of the Zoning Ordinance.
4. The proposed construction requires a variance to be located forward of the rear building line. In accordance with Section 59.4.4.9.B.2.c of the Zoning Ordinance, any accessory structure must be located behind the rear building line of the principal building.

The Board of Appeals originally scheduled this hearing for April 9, 2025. A hearing was convened on that day as scheduled. At the hearing, the Board determined that the Petitioner needed counsel to proceed. The Board continued the matter on the record to 9:30 a.m. on May 21, 2025.

The Board of Appeals reconvened the hearing on this variance application on May 21, 2025. The Petitioner was represented at that hearing by Matthew Andelman, Esquire. Peter Howard, who signed the variance application on behalf of the Temple as

President of the Temple's Executive Committee, appeared at the hearing in support of the request, along with Kassandra Reyes Liste, the Director of Project Management with New Columbia Solar, and congregation member Mike Gurevich. The Board held a full hearing that day before continuing the matter to June 25, 2025, so that the Petitioner could provide information responsive to Board questions, notably about the feasibility of locating solar panels on the roof of one of the Temple's buildings in order to minimize the size of the solar canopies and as a result, the variances needed.

The Board of Appeals reconvened the hearing on this variance application on June 25, 2025. The Petitioner was again represented Matthew Andelman, Esquire. Peter Howard, Kassandra Reyes Liste, and Mike Gurevich were also present again in support of the requested variances. Additional information was introduced at that hearing that reduced the extent of two of the four variances needed. See Exhibits 15(a)-(e).

Decision of the Board: Revised Variances **GRANTED**, as follows:

1. The Petitioner is granted a 13.2 foot variance from the required rear lot line setback, as originally requested.
2. The Petitioner is granted a three (3) foot variance from the required front lot line setback instead of the 15.8 foot variance that was originally requested.
3. The Petitioner is granted a fifteen (15) foot variance from the required left side setback instead of the fifty-one (51) foot variance that was originally requested.
4. The Petitioner is granted a variance to allow construction forward of the rear building line, as originally requested.

## **EVIDENCE PRESENTED**

1. The subject property is PL 7503 Rock Creek Forest Section 2 Parcel A Subdivision, located at 8401 Grubb Road in Silver Spring, Maryland, 20910, in the R-60 Zone. It is an eight (8) sided corner property, 124,698 square feet in size, situated on the north side of the intersection of Grubb Road, which borders the subject property to the southwest, and East-West Highway, which borders the subject property to the southeast. The southern "corner" of the subject property, which faces the intersection where these two roads meet, is truncated, forming one of the property's eight sides. The property's northernmost property line parallels this truncated corner. The property's left side lot line meets the property's Grubb Road frontage at a right angle and is comprised of multiple segments. The property's rear lot line meets the property's East-West Highway frontage at a right angle. See Exhibits 4 and 9(a). The variance Application indicates that the property was recorded in 1964. Per SDAT, it contains a church (Temple) that was built in 1965. See Exhibit 1 and SDAT printout.

2. The Petitioner's Statement of Justification ("Statement") states that the Petitioner "is proposing to develop (2) two solar carport structures in the synagogue's parking lot."

The Statement states that the proposed solar carports “will generate 168.75-kilowatt DC of clean, low-cost energy to power the Temple, reducing strain on PEPCO Maryland's grid and adding resiliency to the community.” It further states that the proposed carports “will complement the rooftop solar the Temple also plans to install” and will allow the Petitioner to install four (4) EV Chargers on the property. See Exhibit 3.

3. The Petitioner's variance Application states that because of the property's unusual configuration, application of the required setbacks results in “exceptional narrowness.” See Exhibit 1. The Statement echoes this, stating that the property is unique because its front, side, and rear lot lines are not “intuitively set,” and that “[d]ue to the lot's unique features and shape, the setback regulations are applying exceptional narrowness to this specific property.” In addition, the Statement states that the proposed solar carports will generate clean, low-cost energy to power the Temple, and thus concludes that the “proposed development contains environmentally sensitive features that are critical to reach the Temple's, local community's, and Montgomery County's climate goals.” Finally, the Statement states that the proposed solar carports would “substantially conform[] with the established historic or traditional development pattern of a street or neighborhood” because “[m]any of the Temple's neighbors have solar themselves, and solar carports in general add property value, enhance the neighborhood, and align with the area's development pattern.” See Exhibit 3.

4. The Statement states that the requested variances are “the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary conditions on the property.” In support of this, the Statement states that “[t]hese accessory structure carports cannot reasonably be shortened or decreased in size to adjust to the setbacks because the high upfront cost of construction would no longer be justified by the energy savings.” The Statement further states that “[r]educing the size of the carports would significantly decrease the number of solar panels that can be installed, resulting in insufficient energy production to meet the Temple's needs and undermining the project's goal of creating a sustainable facility.” See Exhibit 3.

5. The Statement states that granting the variances needed to allow the proposed solar carports will not have an adverse impact on the use and enjoyment of neighboring properties because of the “tall trees and foliage surrounding the property.” The Statement further states that these trees and foliage will “block most of the canopies from sight to the abutting properties.” See Exhibit 3.

6. The Statement emphasizes that the proposed installation of solar carports aligns with Montgomery County's goals and Climate Action Plan, as well as with the State of Maryland's Climate Pollution Reduction Plan. The Statement notes that the Petitioner has received a Solar Canopy and Dual Use Technology Grant for the proposed installation from the Maryland Energy Administration. See Exhibit 3.

7. The Statement states that the circumstances that make the subject property unique are not the result of any actions taken by the Petitioner because the property's “lot

shape and main, side and rear street determinations were done prior to the prospect of constructing solar canopies." See Exhibit 3.

8. The Statement states that the requested variances can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan. In support of this, the Statement states that "[t]he number of existing parking spaces available will remain the same," that "[n]o traffic patterns or emergency vehicle access will be affected," that the proposed construction "is not creating additional impermeable area since it is already being installed over an asphalt covered parking lot," and that "[t]he Temple's main purpose and use of these parking lots will remain unchanged." See Exhibit 3.

9. The Petitioner includes numerous letters from members of the congregation supporting the grant of the requested variances, most of which were received before the May 21, 2025, hearing. See Exhibits 8(a)-(s). After the May 21, 2025, hearing, the Board received two additional letters of support from congregation members who live in the surrounding neighborhood. See Exhibits 13(a)-(b).

10. Leonard Raskin, whose property abuts the subject property, submitted a letter with attachments opposing the grant of the requested variances. In his letter, Mr. Raskin asserts that the proposed solar canopies will conflict with access for fire and rescue vehicles. That said, he includes email correspondence with staff from at the County's Department of Permitting Services ("DPS") who approved fire department access for the proposed construction, and who indicated that "the proposed design remains technically compliant per prescriptive fire department access code." See Exhibit 11.

Mr. Raskin also states in his letter that parking is a problem at the Temple, and that cars park on neighborhood streets when the parking lot is full, blocking driveways, fire hydrants, and sightlines needed for safe driving. He questions how many parking spaces will be lost to the proposed construction, and suggests alternative locations for the carports. In addition, Mr. Raskin indicates in his letter that parked cars further narrow the surrounding streets, impacting access by emergency response vehicles. See Exhibit 11.

Mr. Raskin's letter questions how the proposed solar panel canopies conform with the established development pattern in the neighborhood, and asserts that the benefit from them inures to the Temple rather than to the neighborhood. See Exhibit 11.

Mr. Raskin asserts in his letter that EV charging stations, which he acknowledges are not part of the variance application, should not be allowed on the subject property, and will create additional traffic in the neighborhood because they will "certainly be open to the general public." He questions how the use of these chargers will be monitored. Mr. Raskin asserts in his letter that the Temple's parking lot is sometimes used for illicit purposes or to dump trash. See Exhibit 11.

Finally, Mr. Raskin states that of the 19 letters of support for the proposed solar canopies that he had counted in the record, 18 are from members of the Congregation who live “outside of the Temples *[sic]* general area.” Mr. Raskin states that this is a “great case of ‘not in my back yard’!!” See Exhibit 11.

11. The Board also received a letter of opposition from Mr. Raskin’s daughter, Sheryl Raskin, who resides at the Raskin property abutting the Temple property. Ms. Raskin’s letter echoes most of the points made in her father’s letter and recounted above, but did not include the attachments that were included with her father’s letter. See Exhibit 12.

12. On June 6, 2025, after the May 21, 2025, hearing but prior to the June 25, 2025, hearing, the Board received an additional letter from Mr. Raskin. In this letter, Mr. Raskin expresses concern about the safety of his home, his neighbors’ homes, and his neighborhood, as well as concern about the “conditions and requirements under which Temple Shalom is installing these solar panels.” His letter states that the Temple is “renting the use of their property” for the installation of the proposed solar panels, and that to the best of his knowledge, the Temple’s EV charging stations will be open to the public. Mr. Raskin’s letter states that people walk through the Temple property, and he recounts instances of the Temple property having been used for non-Temple purposes, including unlawful activity. Finally, Mr. Raskin’s letter questions the identification of the subject property’s front lot line(s) by the County’s Department of Permitting Services, and asserts that variance signs should have been posted on all of the Temple’s affected property lines. See Exhibit 14.

13. At the May 21, 2025, hearing, Ms. Liste testified that the Petitioner is seeking to install two solar carport/canopy structures, and she described the locations of those structures and the variances needed. Ms. Liste testified that the subject property is unique because its front, side, and rear lot lines are not intuitively set. She testified that despite the property’s location at the corner of two main streets (Grubb Road and East-West Highway), the main building on the property faces Keith Court. Ms. Liste testified that Grubb Road is considered the property’s front lot line, and that the property’s East-West Highway and Keith Court lot lines are both considered sides. In response to a Board question asking how this impacted the Temple’s ability to install the proposed solar canopies, Ms. Liste testified that the Temple’s parking lots are in front of the Temple building, but that for zoning purposes, they are in the property’s side yard. Ms. Liste testified that her company does not like putting arrays in front of a building, but that this is how the subject property was designed. She testified that the required setbacks are increased over the standard setbacks because of the length and height of the proposed canopies, which are considered accessory structures.

Ms. Liste testified that the proposed solar canopies cannot be shortened in length or decreased in height because the cost of the canopies would not equal the savings, undermining the Temple’s energy needs. Ms. Liste further testified that the structures need to have a 14 foot (14’) clearance so that fire trucks and school buses can pass beneath them. In response to a Board question asking if the canopies that were over parking spaces as opposed to drive aisles could have an eight (8) foot clearance,

Ms. Liste testified that they could, but that part of one of the canopies that is over a drive aisle would then have to be removed. Ms. Liste testified that the solar panels needed to be tilted south, and that as currently planned, they have a 7 degree tilt. She testified that the height of the structures could be decreased by making the panels "flat," but that this would decrease energy generation by 10%-15%.

Ms. Liste testified that installation of the proposed solar canopies will not impact the general or Master Plan. Ms. Liste testified that with the proposed canopies, the number of parking spaces in the Temple's parking lot will remain the same, there will be no increase in impervious area, and there will be no change to emergency access. She testified that the proposed installation will not adversely affect neighboring properties, and that tall trees and foliage will block the view of the canopies from all but one lot.

In response to a Board question asking if the proposed solar carports/canopies would be completely over existing asphalt, Ms. Liste testified that the entire footprint of both solar arrays would be over existing asphalt. In response to a Board question asking if she knew which neighbors have solar at their houses, Ms. Liste testified that one abutting neighbor has solar on their rooftop but that none have solar canopies, that a lot of houses in the neighborhood have solar, and that the community "understands" solar power. In response to a Board question asking how the proposed solar canopies would impact parking, Ms. Liste testified that the foundations for most of the canopies are located at the corners of parking spaces to minimize their impact, and that a couple fall outside of parking spaces.

In response to a Board question asking if the proposed solar carports/canopies were of the minimum size necessary to meet the Temple's energy needs, Ms. Liste testified that they would cover 88% of the Temple's 2024 energy usage. In response to a Board question asking if there was any other place on the property to locate the proposed canopies, Ms. Liste testified that they could be shifted towards the property's northwest side lot line, but that they would still require variances. In addition, she testified that they could be relocated to the area suggested by the Raskins, but said that it would be more difficult to construct the proposed solar canopies on a grass area than on a paved area, and that trees would have to be removed to put the canopies in this area, defeating the environmental purpose of solar power. In response to a follow up question from the Board, Ms. Liste confirmed that only areas of the subject property that are currently unpaved would be available for the installation of the proposed canopies without variance relief. In response to a Board question asking about rooftop solar panels, Ms. Liste testified that solar panels are planned for the Temple's rooftop, but that these panels alone would not cover the Temple's energy needs. She testified that the one-story building on the east side of the Temple is shaded and that as a structural matter, that building cannot hold the weight of solar panels. Ms. Liste testified that the building attached to the south side of the Temple has a sloped roof; she stated that a structural analysis of that building has not been done to determine if it could hold solar panels.<sup>1</sup> In

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<sup>1</sup> Mr. Andelman stated that the Temple is currently in the middle of a capital campaign to raise money for the purpose of changing this building, which at a minimum would include the addition of an elevator and refurbishing of the space. Mr. Howard testified that the Temple is in the second year of this campaign, the

response to a Board question asking how long such a study would take, Ms. Liste estimated that it could be done in a month. She then proceeded to testify that the canopies are needed with the EV Chargers because the Maryland grant that is being used to fund the proposed construction requires that the Temple have 4 EV Chargers. In response to a Board question asking if there was a break even point at which the amount of power generated could be reduced but the project would still be useful, Ms. Liste testified that there is a break even point, but noted that a lot of this work is being done with no up-front cost to the Temple because of State incentives.

In response to a Board question asking how the proposed solar canopies would add value to the neighborhood, Ms. Liste testified that solar power reduces strain of the power grid and that on average, solar increases property values.

14. Mr. Andelman stated that the Temple has adequate parking for typical Temple uses, but that on high holidays, people may have to park on the street. He stated that the Temple does not allow people to park on Keith Court. Mr. Andelman stated that construction of the proposed solar carports/canopies will not cause the loss of any parking spaces, and that he does not expect it to impact parking.

In response to a Board question asking if third parties would be allowed to use the planned charging facilities, Mr. Andelman stated that the Temple has no plans to allow this, but that he is not sure whether the Temple will be required to allow the public to use the EV Chargers. He stated that it would be the Temple's preference to restrict use of the EV Chargers to the Temple's membership and employees through the use of a PIN program.

15. Mr. Howard testified that the area of the property where Mr. Raskin suggests locating the solar canopies would require cutting down trees and putting the canopies over land that is currently permeable. He stated that that corner of the property is currently wooded. In response to a Board question asking how the proposed installation would be consistent with the traditional development pattern of the neighborhood, Mr. Howard testified that while there is nothing similar to the proposed canopies in the neighborhood, the Temple is not changing the current use of its space, is not seeking to add a business or new recreation area to its property, and is not removing parking spaces or changing anything else.

16. In response to a Board question asking if anyone who lived nearby in the neighborhood supported the proposed construction, Mr. Gurevich testified that the Temple had reached out to all of its neighbors to let them know about the proposed construction. He testified that the neighbors were generally ambivalent, and that if they had been opposed to the project, they would have come forward. Mr. Gurevich testified

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proceeds from which would be used to add an elevator to the existing courtyard area and to refurbish the lobby entrance by re-doing that section of the building to have an elevator and a grand staircase. In response to a Board suggestion that it did not sound like the proposed construction would impact the roof of this building, Mr. Howard testified that the Temple does not yet have final architectural plans, but that it was possible that portion of the building could be substantially changed.

that Mr. Raskin is not opposed to the project, but rather than he would like it located elsewhere on the Temple property.

17. At the June 25, 2025, hearing, Ms. Liste provided information responsive to questions asked by the Board at the May hearing. She stated that the Temple had received two additional letters of support from persons who live in the surrounding neighborhood. See Exhibits 13(a)-(b). In addition, she noted that Mr. Raskin had submitted additional correspondence expressing concerns about the use of the EV Chargers. Ms. Liste testified that she had done additional research regarding the EV Chargers, and had learned that they can be manually turned off to prevent access. In addition, she testified that the EV Chargers come with RFID cards that the Temple can provide to those persons to whom they wish to grant access to the EV Chargers.

At the request of the Chair, Ms. Liste reviewed the Temple's request for the Board. She testified that the Temple is seeking to install two solar carports/canopies on their property, with the smaller "Array 1" located northeast of the Temple building, and the larger "Array 2" located closer to the property's front lot line on Grubb Road. She testified that the proposed installation requires numerous variances. Ms. Liste testified that the property is an odd-shaped corner lot whose front lot line is not intuitively set. She noted that while Grubb Road is considered the property's front, the front of the Temple building actually faces Keith Court and Spencer Road. Thus she testified that the orientation of the Temple building on the subject property is odd. Ms. Liste testified that there is an entrance to the property from Keith Court, and that this is the entrance that most people use. She testified that the Temple's address is on Grubb Road.

Ms. Liste testified that Array 2 needs large setback variances. She testified that to reduce the size and height of that structure, Mr. Raskin had suggested relocating the proposed solar panels to an unpaved area on the eastern portion of the property, and that the Board had asked about the feasibility of relocating some the proposed panels to the roof of one of the Temple buildings. As a result, Ms. Liste said that she designed a couple of options, which she displayed for the Board. See Exhibit 15(c). The ground mount design created in response to Mr. Raskin's suggestion shows five solar canopies located on the eastern portion of the property in an area that contains a very large tree and appears wooded. Ms. Liste testified with respect to the second design option that a structural analysis showed that the roof of the other Temple building in question could support solar panels. See Exhibit 15(e). She testified that in addition to installing panels on the roof of that building, the second option involved decreasing the height and length of Array 2 so that it only covered parking spaces. Ms. Liste testified that with these revisions, proposed Array 2 would only need to provide eight (8) feet of clearance, which would reduce the total height of the canopy structure from 21 feet to less than 15 feet, eliminating the need for additional setback due to the height of the structure. In addition, Ms. Liste testified that the revised canopy design would reduce the length of the structure from 121 feet to 97.35 feet and would allow the structure to be located 57 feet from Grubb Road instead of the initially proposed 44 feet. Ms. Liste testified that these changes would allow the Temple to pursue smaller variances than originally requested for Array 2. In response to a Board question asking her to recount the variances that would be needed



for this project with the proposed revisions, Ms. Liste testified that the variance needed from the front lot line setback would be reduced from 15.8 feet to three (3) feet, and that the variance needed from the left side lot line setback would be reduced from 51 feet to 15 feet. She testified that the 13.2 foot variance from the rear lot line setback would still be needed, as would the variance to allow construction forward of the rear building line. See Exhibit 15(a).

## FINDINGS OF THE BOARD

Based on the binding testimony and the evidence of record, the Board finds that the revised variances, as set forth on Exhibit 15(a), can be granted. The requested revised variances comply 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, based on the Statement, Site Plan, Zoning Vicinity Map, and testimony of Ms. Liste, that the eight-sided shape of the subject corner property is unusual relative to surrounding properties. In addition to having a unique shape, the Board finds that the subject property is unusual in that it is bordered by two major roadways—East-West Highway to the southeast and Grubb Road (from which there is a driveway) to the southwest—and yet it was developed with a structure that does not face either of these road frontages, but rather faces what has been determined for zoning purposes to be the property's "side" lot lines, where there is access via Keith Court. The Board notes, based on the Site Plan and Zoning Vicinity Map, that Keith Court is a very short street that begins at Spencer Road and extends for approximately 100 feet in a southeasterly direction, between two residential properties that abut both Spencer Road and the subject property, before it crosses onto the subject (Temple) property. The Board finds that the orientation of the Temple on this property, facing one of the property's side lot lines, is unusual compared to the typical orientation of structures on nearby properties, which face front lot lines, and results in the property's front, side, and rear yards for zoning purposes being incongruous with the property's functional front, side, and rear yards. See Exhibits 3, 4, and 9(a). The Board finds that these factors combine to create an unusual condition peculiar to this property, 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 there is nothing in the record to suggest that the Petitioner is responsible for the unusual shape of the subject property, for the way in which the property's various lot lines are identified for zoning purposes, or for the resultant orientation of the Temple structure on the property. Thus the Board finds that the special

circumstances or conditions applicable to this property are not the result of actions 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;*

The Board finds, based on the Statement, Site Plan, and the testimony of Ms. Liste, that because of the property's unique shape and the unusual orientation of the existing structure on the property relative to its front, side, and rear lot lines, as determined for zoning purposes, the application of the setback requirements to the subject property significantly restricts the area available for installation of the proposed solar canopies, causing the Petitioner a practical difficulty. See Exhibits 3 and 4. The Board further finds that the Petitioner has explored all suggested options for minimizing the variances needed in connection with the proposed installation, and as a result, was able to decrease the height and length of one of the proposed canopy arrays by adding solar panels to the roof of a building that was not previously slated for solar. See Exhibit 15(a)-(e). In addition, the Board finds, in accordance with the Statement and the testimony of Ms. Liste and Mr. Howard, that installation of the proposed solar carports/canopies over existing paved parking areas, in the locations proposed, will minimize impact to the environment by negating the need for additional impervious surface and preserving existing tree cover and vegetation, and will minimize the costs associated with the installation of the proposed solar carports. See Exhibits 3, 4, and 15(b). The Board further finds that as revised, the requested variances are the minimum needed to overcome this practical difficulty and to allow construction of the proposed solar carports in the specified areas. See Exhibits 15(a) and (b). Thus the Board finds that the requested variances are the minimum necessary to overcome the practical difficulties imposed by strict compliance with the Zoning Ordinance, in satisfaction of the 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, based on the Statement, that granting the revised request for variances, needed to allow the Petitioner to construct the proposed solar carports over the parking lots on their property, would continue the existing use of the property, while at the same time furthering the County's climate goals and Climate Action Plan. See Exhibits 3 and 15(a). The Board further finds that the requested variances would not expand or change the existing use of the property, including the extent of the property's existing impervious surface, and thus can be granted without substantial impairment to the intent and integrity of the Greater Lyttonsville Sector Plan. In light of the foregoing, the Board finds that the requested variances can be granted without substantial impairment to the intent and integrity of the applicable general plan and 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 and the testimony of Ms. Liste, that granting the variances needed to allow the proposed solar canopies would not have an adverse impact on the use and enjoyment of neighboring properties because of existing tall trees and other foliage around the property that will block the view of the canopies from all but one abutting lot. See Exhibits 3 and 15(a). In addition, the Board finds, in accordance with the testimony of Mr. Gurevich, that the Temple reached out to its neighbors about the proposed construction, and that with the exception of the Raskins, no opposition was received. Finally, the Board finds that the record contains numerous letters of support for the proposed construction, including at least two letters from residents of the surrounding neighborhood. See Exhibits 8(a)-(s) and 13(a)-(b).

The Board recognizes that the record contains three letters of opposition, two from abutting property owner Leonard Raskin and one from his daughter Sheryl Raskin, who resides at the abutting property. See Exhibits 11, 12, and 14. Mr. Raskin's first letter expresses concern that the proposed solar canopies would obstruct access by fire and other emergency equipment, but the Board finds that Ms. Liste has testified that the height of the proposed canopies was established specifically to provide enough clearance for fire equipment and school buses. In addition, the Board finds that one of the attachments to Mr. Raskin's letter is his correspondence with the County in which the County states that the access provided to the subject property with the proposed canopies would meet the fire department access code, and that the Temple's Statement clearly states that "[n]o traffic patterns or emergency vehicle access will be affected" by the proposed solar canopies.<sup>2</sup> In addition, Mr. Raskin and Ms. Raskin question whether the installation of the proposed solar canopies will result in a decrease in the number of available parking spaces on the subject property, but the Statement states that "[t]he number of existing parking spaces available will remain the same," and Mr. Howard confirmed this in his testimony. See Exhibit 3. Mr. Raskin's other concerns about problematic and potentially unlawful activity on the subject property are not necessarily relevant to the analysis required in connection with requested variances, and neither is the potential use of the EV Chargers, which do not require Board approval, but which the Board finds was addressed by Ms. Liste in her June 25, 2025, testimony when she indicated that there would be a means to control access to the EV Chargers. In light of the foregoing, while the Board acknowledges that there is opposition to the requested variances, the Board notes that zoning is not a plebiscite. See *Montgomery County Council v. Scrimgeour*, 211 Md. 306, 313, 127 A.2d 528, 532 (1956), citing *Benner v. Tribbitt*, 190 Md. 6, 57 A.2d 346 (1948). Accordingly, the Board finds that granting the requested variances, as revised, will not be adverse to the use and enjoyment of neighboring properties, in satisfaction of this element of the variance test.

Based on the above, the requested variances, **as revised**, which are necessary to allow construction of the proposed accessory structures (solar carports/canopies), are **granted**, subject to the following conditions:

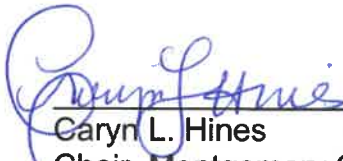
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<sup>2</sup> As revised, Array 2 will be wholly located over parking spaces as opposed to any drive aisles, and thus does not need as high of a clearance. See Exhibits 15(b) and (d).

1. Petitioner shall be bound by the testimony and exhibits of record; and
2. Construction shall be in accordance with Exhibits 5 (to the extent still applicable), 15(b), and 15(d).

Therefore, based upon the foregoing, on a motion by Amit Sharma, seconded by Alan Sternstein, with Caryn L. Hines, Chair, and Donald Silverstein in agreement, with Richard Melnick, Vice Chair, necessarily absent, and with Alan Sternstein abstaining, 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 9th day of July, 2025.

  
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 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.