

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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**Case No. A-6915
PETITION OF JOHN R. AND KATHERINE RUNYAN**

**OPINION OF THE BOARD
(Hearing Date: June 4, 2025)
(Effective Date of Opinion: June 18, 2025)**

Case No. A-6915 is an application by Petitioners John and Katherine Runyan for a variance needed for the proposed construction of an addition and deck. The proposed construction requires a variance of 18.9 feet as it is within 1.1 feet of the rear lot line. The required setback is twenty (20) feet, in accordance with Section 59.4.4.9.B.1 of the Zoning Ordinance.

The Board of Appeals held a hearing on the application on June 4, 2025. Petitioners John and Katherine Runyan participated in the proceedings in support of the requested variance. They were assisted by their architect, Robert Black, AIA.

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

EVIDENCE PRESENTED

1. The subject property is Lot 18, Block B, Indian Springs Highlands Subdivision, located at 10205 Brookmoor Drive, Silver Spring, Maryland, 20901, in the R-60 Zone. It is a four-sided interior lot located on the east side of Brookmoor Drive, with an area of 6,569 square feet. The property is wider than it is deep, and its frontage along Brookmoor Drive is slightly convex. The property's side lot lines are generally perpendicular to its front lot line but are not parallel to one another, converging slightly because of the arc of the street in front of the property. The property's left side lot line is significantly longer than the right side lot line (78.22 feet versus 51.77 feet). As a result, the property's rear lot line is angled, and the property's left side is deeper than its right side. There is a six (6) foot WSSC sanitary sewer easement along the left side of the property, and a ten (10) foot right-of-way easement along its front. Finally, there is an eight (8) foot wide easement that abuts the property's rear lot line, but is located on the adjoining property (Lot 19). This easement was granted for the "exclusive use and enjoyment" of the subject property,

runs with the land, and “shall be binding on, and shall inure to, the benefit of the owners of Lot 18, their heirs, successors, or assigns.” See Exhibits 4, 8, and 9.

2. The subject property was recorded in 1950. Per SDAT, the property contains an existing house that was built in 1951, and it was purchased by the Petitioners in 2014. See Exhibit 1 and SDAT Printout.

3. The Petitioner’s variance Application cites the narrowness, shallowness, and “unusual lot shape” of the subject property as features of the property that cause full compliance with the Zoning Ordinance to cause the Petitioners a practical difficulty, as well as other extraordinary conditions, namely that the way the house was “sited and constructed within the lot make it difficult to make practical improvements.” The Application states that “[t]he combination of the 20’ rear yard setback and existing floorplan configuration will not allow for improvements at other locations on the site.” See Exhibit 1.

4. The Petitioner’s Statement of Justification (“Statement”) states that the Petitioners are seeking a variance from the setback from the rear lot line “for a proposed 1-story family room and kitchen addition constructed over a crawl space foundation.” The Statement states that the property’s rear lot line “abuts an 8’ deeded easement” for use by the subject property, and that the proposed improvements “do not encroach on this easement.” The Statement states that with the proposed improvements, the resultant lot coverage will be 32%, which is less than the 35% that is allowed on this property. See Exhibit 3.

5. The Statement at Exhibit 3 states that the subject property is unique for the purposes of satisfying Section 59.7.3.2.E.2.a.i of the Zoning Ordinance for a multitude of reasons, as follows:

The existing two-story residence is situated on an interior lot with an unusual configuration, presenting significant challenges for expanding the house due to the limited depth of the rear yard and practical considerations for the proposed improvements. Alternative locations are impractical because of the house layout, driveway placement, existing HVAC condensers, existing basement egress window well, large trees, side yard setbacks, and utility easements.

6. In addition, the Statement states that the proposed construction would use an existing legal and nonconforming structure, in satisfaction of Section 59.7.3.2.E.2.a.ii of the Zoning Ordinance. In support of this, the Statement states that the existing house encroaches on the required rear setback in three locations, and thus states that the “existing residence is nonconforming.” The Statement notes that the house “was in place prior to when the applicant purchased the house” and that its nonconforming placement is thus “not the result of actions by” the Petitioners. See Exhibit 3. The Petitioners’ Site Plan shows that while the various sections of the rear of the Petitioners’ existing house are stepped back to match the property’s angled rear lot line, the existing house still crosses the rear setback line in three places, and the rest of the house is very close to

that line. The Site Plan further shows that the front of the Petitioners' house, which is roughly parallel to the abutting street, is located less than a foot from the front setback line. See Exhibit 4.

7. The Statement states that the existing layout of the Petitioners' house "is very narrow and fits all common areas in one open area." The Statement states that the proposed addition "will give Petitioner[s] the chance to add some separation between living areas that will greatly improve functionality for their family of five." It further states that the proposed addition "will give the Petitioner[s] a room to host family and friends and allow them to expand a kitchen that could not be enlarged without changing the footprint of the home." The Statement states that the Petitioners "would like to keep raising their family in Woodmoor where they attend local schools, take advantage of local parks (e.g. Pinecrest Park) and enjoy many of the social gatherings that bring many families to the 1,000-home neighborhood in the first place." See Exhibit 3.

8. The Statement states that the requested variance can be granted "without substantial impairment to the intent and integrity of the general plan and the applicable master plan." The Statement states that the proposed construction will "have a minimal impact on the plan and [is] within proportion of the existing residence." The Statement further states that the construction would only increase the total lot coverage by 7% for a total of 32%, which is less than that 35% maximum lot coverage. See Exhibit 3.

9. The Statement states that the proposed construction will not be adverse to the use and enjoyment of neighboring properties. In support of this, the Statement states that the proposed construction "is in keeping with the surrounding neighborhood" which consists of smaller urban lots, many of which have been improved by homeowners over the years and that the "scale of the addition matches the main structure." The Statement states that the "use of large glass areas creates an open appearance" relative to solid structures with minimal windows, and that the "proposed addition's aesthetic aligns with the original neighborhood and architecture." The Statement states that "[t]he lot maintains an 8-foot deeded easement in the rear yard, permitting non-permanent structures, thereby increasing the openness of the rear yard." Finally, the Statement notes that "[t]he proposed design has received several letters of support from neighboring property owners." See Exhibit 3.

10. The record includes letters of support from all three of the Petitioner's abutting neighbors. See Exhibits 7(a)-(c).

11. At the hearing, Mr. Runyan testified that he and his family have lived in the neighborhood since 2014, and that it is a wonderful community. He testified that they are seeking to construct a one-story addition that will give them the room they need to be able to stay in their home. He stated that the addition would be constructed where there is currently a deck. Mr. Runyan testified that the subject property is an unusual lot that was carved out of the property behind it (Lot 19), and he agreed with a Board member observation that his property is shallower than most lots in the neighborhood. Mr. Runyan testified that the proposed location is the only place an addition could be built on the

property. Finally, Mr. Runyan testified that he and his wife have received letters of support from all of their abutting neighbors.

12. Mr. Black testified that the subject property has an unusual shape. He testified that the back of the existing house encroaches into the required setback from the rear lot line, and that the proposed addition and deck would also encroach into this setback. Mr. Black testified that there is an eight (8) foot wide easement on the adjoining property that abuts the rear lot line of the subject property (Lot 19), and that the easement area is for use by the owners of the subject property (i.e. the Petitioners/owners of Lot 18). He testified that the easement area is fenced as though it is part of the subject property, and that as a result, the subject property appears larger than it actually is.

Mr. Black testified that the left (north) side of the property starts out wide and then tapers down. He testified that the left side has a sewer easement that extends from the property's front to its rear, presumably to serve the property that abuts the subject property to the rear (Lot 19). Mr. Black testified that the right (south) side of the property is very narrow and that construction on that side is additionally limited by the presence of an egress window well and HVAC condenser units. Mr. Black testified that the shape of the property, the placement of the house on the property, and other encumbrances on the property do not leave adequate space for an addition, and that the selected location is the only place that the proposed addition and deck can be located.

FINDINGS OF THE BOARD

Based on the binding testimony and the evidence of record, the Board finds that the variance from the rear lot line can be granted. The Board finds that 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;

The Board finds, based on the Application, Statement, Site Plan, and Zoning Vicinity Map, that the subject property has a sharply angled rear lot line, giving it a shallow right side and an unusual trapezoidal shape that differentiates it from the majority of properties in the neighborhood. The Board further finds that the property's unusual shape and resultant shallowness significantly constrain its buildable area, particularly to the rear, and constitute an extraordinary condition peculiar to this property, in satisfaction of this element of the variance test. In addition, the Board finds that the presence of an easement behind the subject property that is dedicated for exclusive use by the owners of the subject property, and the presence of a sewer easement along its left side, constitute other unusual and extraordinary conditions peculiar to this property. See

Exhibits 1, 3, 4, and 9. Accordingly, the Board finds that this element of the variance test is satisfied.

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, based on the Statement, the SDAT Printout, and the testimony of Mr. Runyan, that the house on the subject property was built in 1951, and that the subject property was developed long before it was purchased by the Petitioners in 2014. See Exhibit 3 and SDAT Printout. Accordingly, the Board finds that the unusual shape of the subject property and other encumbrances are not the result of actions by the Petitioners, and that this element of the variance test is satisfied.

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 compliance with the rear lot line setback imposed by the Zoning Ordinance poses a practical difficulty for the Petitioners with respect to their ability to expand their existing home, which is nearly flush with the front setback line and already encroaches on the rear setback in three places. The Board finds that the subject property's unusual shape and resultant shallowness severely constrain the property's buildable area. The Board further finds, based on the Statement, the Site Plan, and the testimony of Mr. Black, that the requested variance is the minimum necessary to permit the proposed improvements to the rear of the Petitioners' home, and thus to overcome the practical difficulties posed by full compliance with the Zoning Ordinance. See Exhibits 3 and 4. In light of the foregoing, 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;*

The Board finds that the proposed construction will continue the residential use of the home, and thus can be granted without substantial impairment to the intent and integrity of the Four Corners Master Plan (1996), which seeks to "preserve and maintain the character and integrity of the existing, well-established Four Corners residential neighborhoods" by ensuring that new development is "compatible with the existing residential character" of the community. Accordingly, the Board finds that this element of the variance test is satisfied.

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, Site Plan, Easement, and the testimony of Mr. Black, that there is an eight (8) foot wide strip of land, located on Lot 19 but abutting the rear of the subject property along the entirety of its length, that is under an easement for exclusive use by the owners of the subject property. The Board further finds that this


easement serves as a buffer between the subject property and the abutting property to the rear, mitigating the impact of the requested variance. See Exhibits 3, 4, and 8. The Board further finds that the owner of Lot 19, which abuts the subject property to the right and to the rear, has submitted a letter supporting the grant of the requested variance. In addition, the owners of the abutting property to the left and the owner of the property abutting the left rear corner of the subject property have also submitted letters of support. See Exhibits 7(a)-(c). The Board finds, based on the Statement, that the proposed construction is of a scale that is in proportion with the existing home, and that it will not exceed the allowable lot coverage. The Board further notes that the use of glass in the proposed addition will "create[] an open appearance." Finally, the Board notes that the record contains no opposition to the requested variance, that no one appeared at the hearing in opposition to the requested variance, and that the Board received no opposition to the grant of this variance. On the basis 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 from the rear lot 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 and 5(a)-(e).

Based upon the foregoing, on a motion by Alan Sternstein, seconded by Richard Melnick, Vice Chair, with Caryn L. 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 18th day of June, 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.1 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

