

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. A-6919

PETITION OF ROBERT DREW MELTON

OPINION OF THE BOARD

(Opinion Adopted July 16, 2025)

(Effective Date of Opinion: July 23, 2025)

Case No. A-6919 is an application for two variances needed to allow the proposed construction of a connected carport. The proposed construction requires a variance of five (5) feet as it is within seven (7) feet of the left side (northern) lot line. The required setback is twelve (12) feet, in accordance with Section 59.4.4.8.B.2 of the Zoning Ordinance. In addition, the proposed construction requires a variance of six (6) feet from the sum of both side setbacks requirement, since it reduces the sum of both side setbacks to nineteen (19) feet. The required sum of both side setbacks is twenty-five (25) feet, in accordance with Section 59.4.4.8.B.2 of the Zoning Ordinance.

The Board of Appeals held a hearing on the application on July 16, 2025. Petitioner Robert Drew Melton appeared in support of the requested variances, assisted by his contractor, Rafael Huguet.

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

EVIDENCE PRESENTED

1. The subject property is Lot 29, Block 27, Bel Pre Woods Subdivision, located at 13907 Vista Drive in Rockville, Maryland, 20853, in the R-90 Zone. It is a five-sided, interior property located on the east side of Vista Drive. The property is roughly rectangular in shape except for a truncated left rear corner. It has an area of 9,558 square feet. See Exhibits 3, 4, and 8.

2. The Petitioner's variance Application states that the narrowness and shape of the property, and the "skewed" orientation of the existing house on the property, cause the Petitioner a practical difficult in strictly complying with the development standards set forth in the Zoning Ordinance. See Exhibit 1.

3. The Petitioner's Statement of Justification ("Statement") states that his parents original purchased the subject property in the 1960s, and that they lived there until 2013. It states that the Petitioner's parents extended and widened their driveway along the north side of their house in the 1970s. The Statement states that the Petitioner and his family moved into the house in 2015. The Statement states that the Petitioner is seeking to construct a covered carport over a portion of the property's driveway, and that the proposed carport is the same as the carports that were originally included on many of the homes in his neighborhood. See Exhibit 3.

4. The Statement states that when the Petitioner's contractor applied for a building permit for the carport structure, the permit was denied because the structure was located seven (7) feet from the property's left side (northern) lot line. See Exhibit 3. The Site Plan shows that while the left rear corner of the proposed carport would be seven (7) feet from the left side lot line, the front right corner of the proposed carport would be located eleven (11) feet from that lot line because of the skewed orientation of the house. See Exhibit 4.

5. The Statement states that the Petitioner's house "was constructed quite skewed in relation to the property lines," which in turn "makes any added construction to be much closer to the property line than it would be if the home was placed more parallel to the property lines." The Statement states that this makes the subject property unique for the purposes of satisfying Section 59.7.3.2.E.2.a.i of the Zoning Ordinance. In addition, the Statement states that the proposed carport "is the same style and build of covered carports that many of the homes were originally constructed with," and as such, satisfies Section 59.7.3.2.E.2.a.v of the Zoning Ordinance because it substantially conforms with the established historic or traditional development pattern of the Petitioner's street or neighborhood. See Exhibit 3.

6. The Statement states that the Petitioner is not responsible for the "skewed" positioning of his house on the property, and is similarly not responsible for the previous extension and widening of the property's driveway. See Exhibit 3.

7. The Statement states that the requested variances are the minimum necessary to overcome the practical difficulties that full compliance with the Zoning Ordinance would impose. In support of this, the Statement states that if the variances are not granted, the Petitioner "would not be able to construct a covering on the carport that [his] car would fit under," noting that he is "only covering the existing paved driveway and not extending or adding in order to keep the proposed construction to the absolute minimum and adequately cover the driveway." See Exhibit 3.

8. The Statement states that granting the requested variances will have “no adverse impact” on the master plan because the proposed carport “is the same thing that many of the homes were originally built with,” and thus the carport “should not have any adverse impact on the neighborhood’s essential character.” See Exhibit 3.

9. The Statement states that the Petitioner has spoken with the neighbor whose property is closest to the proposed carport, and that this neighbor supports construction of the proposed carport. See Exhibit 3. This neighbor has submitted a letter of support for the requested variances. See Exhibit 7. In addition, the Statement states that the proposed carport “will not obstruct any neighbor’s views.” Thus the Statement concludes that granting the requested variances will not be adverse to the use and enjoyment of neighborhood properties. See Exhibit 3.

10. At the hearing, the Petitioner testified that his parents purchased the subject property when it was new in 1963, and that he was a child at that time. He testified that his parents lived in the house until 2013, and that he moved back into the house in 2015. The Petitioner testified that the property’s driveway is located on the shady side of the house, and that this poses a problem in bad weather because of ice. The Petitioner testified that in 2013, his mother suffered a bad fall on the driveway because of ice, and that one of the reasons he is seeking a carport is to keep his wife and himself safe as they get older.

The Petitioner testified that as shown on the Site Plan, one of the unique things about his property is that the house is skewed on the lot, such that the sides of the home are not parallel to either side lot line. See Exhibit 4. He testified that he had no control over the original siting of the house, noting that he was six years old when his parents purchased the property. The Petitioner further testified that while most of the lots in his neighborhood are a quarter of an acre in size, the subject property is just over a fifth of an acre. He testified that his parents were responsible for the extension of the driveway along the side of the house, and that he did not live there when the driveway was resurfaced and widened. The Petitioner testified that because of the angled positioning of his house in the property, the corner of the proposed carport is too close to the side lot line.

The Petitioner testified that he has discussed the proposed carport with all of his neighbors, and noted that his abutting neighbors on the left side, whose property is closest to the proposed carport, were supportive of the project and had indicated that it would have no adverse impact on them. See Exhibit 7. He testified that the proposed carport would have no adverse impact on the applicable master plan because he was simply trying to construct a covered carport like the carports that were included on lots of homes in his neighborhood when they were originally built. He testified that before moving into the subject property, he lived in a house a couple of blocks away on Congress Drive that had a carport that he was sure did not meet the required 25-foot sum of both sides setback. The Petitioner testified that both of his neighbors at that house also had carports, and that all of these homes were built at the same time.

The Petitioner testified that the proposed carport is essentially a roof with poles to hold the roof up. In response to a Board question asking if it was a one- or two-car carport, the Petitioner testified that it was a one and a half car carport.

11. Mr. Huguet testified that the proposed carport is aligned with the existing house. He testified that it is an open carport, and that the roof of the existing front porch would be extended across the front of it. Mr. Huguet testified that the proposed carport would follow the roofline of the house, and that the carport roof would have a one foot overhang. See Exhibit 5(b).

CONCLUSIONS OF LAW

Based on the evidence of record, the Board finds that the variances can be granted. The requested 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;

Section 59.7.3.2.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 Application, Statement, Site Plan, and the testimony of the Petitioner, that the subject property is narrow and is slightly smaller than the neighborhood average. In addition, the Board finds, based on the foregoing, that the orientation of the house on the subject property is not square relative to the property's front and side lot lines. See Exhibits 1, 3, and 4. In addition, based on the Statement and the testimony of the Petitioner, the Board finds that the proposed construction of a carport would substantially conform with the established historic or traditional development pattern of homes having carports in the Petitioner's neighborhood. See Exhibit 3. In light of the foregoing, the Board finds that Sections 59.7.3.2.E.2.a.i and v are satisfied.

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 and the testimony of the Petitioner, the Board finds that the Petitioner, who lived in this house as a child and moved back into the house in 2015, is not responsible for the original development of this property, which occurred in 1963. See Exhibit 3. In addition, the Board finds that there is nothing in the record to suggest that the Petitioner is responsible for other homes in his neighborhood having similar carport structures. Thus the Board finds that this element of the variance test is satisfied. See Exhibit 3.

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 side lot line and sum of both sides setbacks imposed by the Zoning Ordinance poses a practical difficulty for the Petitioner because the narrowness of his lot and orientation of his house prevent him from being able to construct a carport similar to the carports that exist on other homes in his neighborhood without obtaining variance relief. See Exhibit 3. The Board finds that the requested variances are the minimum needed to overcome this practical difficulty and to allow the construction of the proposed structure, and notes that the proposed carport will be located over the existing driveway. 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; and*

The Board finds that the proposed construction will continue the residential use of the home, and thus finds that the requested variances can be granted without substantial impairment to the intent and integrity of the Aspen Hill Master Plan (1994), which seeks, among other things, to "protect and reinforce the integrity of existing residential neighborhoods," 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 that the granting the requested variances to allow the proposed carport will not be adverse to the use and enjoyment of abutting or confronting properties. In support of the finding, the Board finds, based on the Statement and the testimony of the Petitioner, that the Petitioner has spoken with his neighbors, and that they do not object to the proposed construction. In addition, the Board finds that the neighbor whose property would be most affected by the proposed construction supports the construction and the grant of the requested variances. See Exhibits 3 and 7. Finally, the Board finds that the property was properly posted, and that no one appeared at the hearing in opposition to the proposed carport enclosure. In light of the foregoing, the Board finds that this element of the variance test is satisfied.

Accordingly, the requested variances needed to allow construction of the proposed carport are **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)-(d).

Therefore, based upon the foregoing, on a motion by Caryn L. Hines, Chair, seconded by Alan Sternstein, with Richard Melnick, Vice Chair, Amit Sharma, and Donald Silverstein in agreement, the Board adopted the following Resolution:

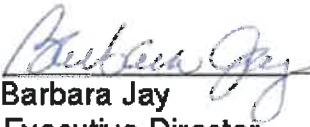
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Caryn L. Hines

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd 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.1 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.