

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
<http://www.montgomerycountymd.gov/boa/>

(240) 777-6600

**Case No. A-6920**

**PETITION OF ROY E. GLIXON**

**OPINION OF THE BOARD**

(Public Hearing Date: July 30, 2025)  
(Effective Date of Opinion: August 11, 2025)

Case No. A-6920 is an application by Petitioner Roy E. Glixon for a variance needed for the proposed construction of an accessory structure (greenhouse). The proposed construction requires a variance to be located forward of the rear building line. Section 59.4.3.4.B.2.d of the Zoning Ordinance requires that accessory structures be located behind the rear building line of the principal building.

The Board of Appeals held a hearing on the Application on July 30, 2025. Mr. Glixon, who owns and lives at the subject property, appeared at the hearing in support of the Application.

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

**EVIDENCE PRESENTED**

1.      The subject property is Lot 4, Ashton Pond Subdivision, located at 17820 Pond Road in Ashton, Maryland, 20861, in the RC Zone. It is a four-sided, 2-acre lot, located on the west side of Pond Road. Per SDAT, the property contains a house that was constructed in 1966; it was purchased by the Petitioner in 1996. The property is considerably deeper than it is wide, and its rear lot line adjoins open space and a pond. It has a "grassy front yard and a wooded rear yard." The property's septic field is located immediately behind the house. Other than the location of the septic field, the Petitioner's backyard is heavily treed and steeply sloped, dropping more than 25 feet between the

back of the Petitioner's house and the property's rear lot line. See Exhibits 3(b), 4, and 8, and SDAT printout.

2. The Petitioner's variance Application indicates that "other extraordinary situations or conditions peculiar" to the subject property make it unique for the purpose of granting a variance. The Application states that the rear of the Petitioner's property "is situated on protected land abutting Ashton Pond/NW tributary," that a "[p]rohibition of tree removal [is] enforced by HOA bylaws," and that the "[g]reen grass area is not suitable due to [the] septic field." The Petitioner's Application states that these conditions cause him a practical difficulty because they prevent him from being able to build a greenhouse structure on his property. See Exhibit 1.

3. The Petitioner's Statement of Justification ("Statement") states that "due to the location of septic and protected trees," construction of a greenhouse at the rear of the subject property is not "feasible." The Statement explains that "[t]rees within the neighborhood are protected by HOA restrictions," going on to state that Section 4 of Section C, Article IV ("Use Restrictions") of the Restated and Amended Declaration of Covenants, Conditions and Restrictions of the Ashton Pond Community Association, Inc., reads as follows:

*Section 4. No living tree larger than thirty-six inches in circumference measured at four feet above the ground shall be cut down without the written permission of the Association. A tree endangering public or private property or persons may be cut down without Association approval.*

See Exhibits 3(a) and 3(b). The Petitioner includes an annotated enlargement of the Site Plan depicting the area behind the rear building line of his house and showing the impact of the restrictions placed on development in that area by the septic field, tree protections, and proximity to the pond, which is "part of the Northwest tributary, over-seen by CB-Trust (Chesapeake)." See Exhibits 3(a) and 3(b).

4. The Statement states that the structures on the subject property were built by the previous owner. See Exhibit 3(a).

5. The Statement states that the proposed greenhouse "will not impact any abutting properties." The Statement further states that "[t]he position of the greenhouse maximizes the distance between all abutting neighbors and will show minimal visibility in any direction." See Exhibit 3(a). The Supplemental Information submitted by the Petitioner indicates that the proposed greenhouse will be between 70 feet and more than 100 feet from abutting property lines. The Petitioner includes photographs showing that any potential view of the proposed greenhouse from neighboring properties will be screened by existing vegetation. These photographs further indicate that two of the Petitioner's four neighbors have given their approval for the proposed construction, that the third property is held by an estate, and that the fourth property is currently for sale. See Exhibit 3(b). The Statement states that the proposed greenhouse "will remain within existing property lines" and "will not impede property limits in any way." Thus the

Statement concludes that “[g]ranting [the] variance will not be adverse to the use and enjoyment of abutting and confronting properties.” See Exhibit 3(a).

6. The Patuxent Watershed Protective Association submitted correspondence indicating that they have no objection to the grant of the requested variance. See Exhibit 10.

7. At the hearing, the Petitioner testified that he is seeking to install a 12' x 16' greenhouse in front of his home. He testified that the greenhouse would be 11'-6" tall. The Petitioner testified that he has a grassy front yard and a wooded rear yard with an in-line pond at the rear for the Northwest tributary. He testified that there is a septic field behind his house. The Petitioner testified that the trees behind his house are all protected by his homeowner's association, and that he cannot locate the proposed greenhouse behind his home without removing protected trees. He testified that even if he were allowed to remove enough trees to construct the proposed greenhouse, the greenhouse would not receive adequate sunlight because of the remaining trees.

The Petitioner testified that his property is registered as a butterfly reserve, and that he is also seeking certification as a wildlife habitat from the National Wildlife Federation.

The Petitioner testified that he had taken photographs showing the view that his neighbors would have of the proposed greenhouse from their properties. He testified that the photos show that there would only be very small “periscope” areas where his neighbors might be able to see the greenhouse, and he noted that the greenhouse would be “pretty far away” from these properties. The Petitioner testified that the greenhouse would be made of wood that would be stained, and that it would have polycarbonate walls to let light in and keep the temperature up. He testified that it would be consistent with other structures on the property. The Petitioner testified that he had received letters of support from two of his four abutting and confronting neighbors. He recounted the (unsuccessful) efforts that he had made to reach the owner of the property directly across the street from his and explained the reasons he believed he had been unable to reach that neighbor. The Petitioner testified that the remaining property is for sale.

The Petitioner testified in response to a Board question asking about screening that as shown on some of the photographs he had submitted, there is a line of very tall (20'-25') shrubs along the front of his property that would obscure any view of the proposed greenhouse from Pond Road. In response to a Board question asking if the shrubs also block the view of his house from the road, the Petitioner said that they did.

## **FINDINGS OF THE BOARD**

Based on the binding testimony and evidence of record, the Board finds that the requested 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;*

\* \* \* \* \*

*Section 59.7.3.2.E.2.iii. - the proposed development contains environmentally sensitive features or buffers;*

The Board finds, based on the Application, Statement, Supplemental Information, Site Plan, and the testimony of the Petitioner, that the area behind the rear building line of the existing house slopes steeply down to Ashton Pond and contains the property's septic field. In addition, the Board finds, based on the Application, Statement, and Supplemental Information, that other than the septic field area, the area behind the Petitioner's home is heavily treed which would block the sunlight necessary for a greenhouse, that removal of mature trees is prohibited by the Ashton Pond Community Association's Declaration of Covenants, Conditions and Restrictions without written permission from the HOA, and that rear of the Petitioner's property is situated on protected land abutting Ashton Pond, which is part of the Northwest tributary and overseen by the Chesapeake Bay Trust. See Exhibits 1, 3(a), 3(b), and 4. The Board finds that these circumstances, taken together, preclude construction behind the rear building line of the Petitioner's home, and constitute an extraordinary condition peculiar to this property, in satisfaction of these elements 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 the subject property was developed in 1966, and that the location of the property's septic field, its slope, its proximity to the protected pond/Northwest tributary, and its protected trees are not the result of any actions by the Petitioner, who purchased the property in 1996. Accordingly, the Board finds that the special circumstances or conditions peculiar 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, Supplemental Information, and the testimony of the Petitioner, that full compliance with the locational requirements in the Zoning Ordinance would not allow the Petitioner to install the proposed greenhouse in the area allowed by the Zoning Ordinance because of the presence of the property's septic field, the slope of the property down to the pond and the protected land around it, and the mature trees on this area of the property that are protected by the HOA. See Exhibits 3(a) and 3(b). The Board finds that this causes the Petitioner a practical difficulty. The Board further finds, based on the Statement and Supplemental Information, that the requested variance is the minimum necessary to allow placement of the proposed greenhouse on

the subject property, and thus the Board finds that the requested variance is the minimum necessary to overcome the practical difficulties posed by full compliance with the Zoning Ordinance on account of the property's septic field, slope, and other enumerated factors, including environmental protections, 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 allowing the Petitioner to proceed with the proposed construction will continue the residential use of this home while respecting existing trees and the abutting in-line pond tributary of the Northwest Branch, consistent with the Sandy Spring Ashton Master Plan (1998), which seeks to "[e]ncourage and maintain a wide choice of housing types and neighborhoods" and "makes the preservation and enhancement of the area's rural character its top priority, closely balanced with another high priority goal, which is environmental protection." Thus 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, Supplemental Information, and the testimony of the Petitioner, that the location in which the Petitioner proposes to install his greenhouse "maximizes the distance between all abutting neighbors" and minimizes visibility from those properties, as shown in the Petitioner's photographs. The Board further finds, based on the Statement, that the proposed greenhouse will be wholly located on the Petitioner's property and "will not impact any abutting properties." See Exhibits 3(a) and 3(b). The Board notes that the Patuxent Watershed Protective Association has no objection to the grant of the requested variance, and that the Supplemental Information supplied by the Petitioner indicates that the two neighbors he was able to contact likewise have no objection. See Exhibits 3(b) and 10. 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, needed for the construction of the proposed accessory structure (greenhouse), 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)-(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:

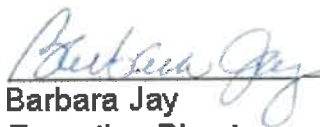
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Caryn L. Hines

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 11th day of August, 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.