

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**Case No. A-6922  
PETITION OF NATHAN MATHESON**

OPINION OF THE BOARD  
(Hearing Date: July 9, 2025)  
(Effective Date of Opinion: July 16, 2025)

Case No. A-6922 is an application by Petitioner Nathan Matheson for a variance needed in connection with the proposed construction of an accessory structure. The proposed accessory structure, a 36 foot by 40 foot detached garage, requires a variance because of its footprint size. Section 59.4.4.7.B.2.b of the Zoning Ordinance provides that the cumulative footprint of all accessory buildings may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater.

The Board of Appeals held a hearing on the application on July 9, 2025. Petitioner Nathan Matheson appeared at the hearing in support of the variance application. He was assisted by his contractor, Corey Groves.

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

**EVIDENCE PRESENTED**

1.     The subject property is Lot 13, Parcel 824, Jerusalem Subdivision, located at 19527 Jerusalem Church Terrace in Poolesville, Maryland, 20837, in the R-200 Zone. It is an unusually shaped, five-sided property, located on the north side of Jerusalem Church Terrace near its terminus. The property's front lot line follows the curvature of the street, including that of the cul-de-sac on which it is located. The property is considerably deeper than it is wide, and its right side is much deeper than its left. The property has a total area of 46,086 square feet (1.05 acres). The topography lines on the Site Plan indicate that the property is encumbered with a steady downward slope from front to rear, falling about 20 feet in elevation over that distance. See Exhibits 4 and 7(a).

2. Per SDAT, the property was purchased by the Petitioner in 2022, and contains a house that was built in 2023. See SDAT Printout. The Petitioner is seeking to build a 1,440 square foot detached garage on his property “to allow for additional storage and an open floor plan” that would permit him to work on his vehicles and to house his “small lawn equipment ... out of the weather.” See Exhibit 9.

3. The Petitioner’s variance Application states that the principal structure on the property (i.e. his house) has multiple stories, and that the Zoning Ordinance minimizes the size of the allowable accessory structure by basing it on the footprint of the principal structure’s first floor. The Application states that this constitutes an extraordinary situation or condition that is peculiar to the subject property. The Application states that this causes the Petitioner a practical difficulty because the “allowed square footage does not satisfy the structure’s long term intended use.” See Exhibit 1.

4. The Petitioner’s revised Statement of Justification (“Statement”) asserts that the County misapplied Section 59.4.4.7.B.2.b of the Zoning Ordinance in calculating the allowed square footage of the proposed accessory structure, and that the County’s interpretation is “inconsistent with the intent of the zoning ordinance, which is to not have excessive structures that overshadow the primary structure with small lots.” See Exhibit 9.

5. The Statement states that the County’s interpretation of Section 59.4.4.7.B.2.b impacts the Petitioner’s property rights, and that “[t]he enforcement of this regulation as applied to [the Petitioner’s] property results in the accessory structure not being an acceptable size to fit the intended use of the building,” noting that “Morton Buildings also has specific sizes for their structures which would result in even less square footage than the allotted amount per the zoning regulations.” See Exhibit 9.

6. The Statement states that the proposed accessory structure (detached garage) “aligns with the Montgomery County Master Plan and supports the County’s goals to dress up the property while also alleviating any potential ‘clutter’ on the property itself.” The Statement further states that the proposed structure “sits well below the neighborhood cul-de-sac height and is partially obstructed by the primary dwelling.” It states that “[t]he neighbor to the right has a line of trees that would block the view of the building from the rest of the neighborhood and has a Morton Building garage,” and that “[t]he property has a tree line towards the back left that would block the proposed structure from the neighbor’s view.” Finally, the Statement states that granting the requested variance would “allow[] for the reasonable and appropriate use of [the Petitioner’s] property in accordance with the County’s zoning and planning objectives.” See Exhibit 9.

7. At the hearing, Mr. Groves testified that Mr. Matheson is seeking to create an accessory structure that can be used for a long time. He testified that Mr. Matheson has many cars but only has a one car garage, resulting in vehicles sitting in his driveway. Mr. Groves testified that the Petitioner’s current garage does not meet his needs, and that he is seeking extra storage, including storage for vehicles and tools. Mr. Groves testified that Mr. Matheson would also like to have a lift in his garage. He testified that the footprint

of Mr. Matheson's home is 1,767 square feet, limiting the allowable size of the garage to 838 square feet. Mr. Groves testified that the proposed garage is 1,440 square feet, and that its external dimensions (36' x 40') are slightly larger than its internal space.

Mr. Groves testified that the proposed garage would be located behind Mr. Matheson's house, and that its location would not protrude into the setbacks from the property's well and septic. He testified that the driveway would be extended to provide access to the proposed structure. Mr. Groves testified that the proposed garage sits below the cul-de-sac and behind the house. He testified that trees would block the view of the garage from the right and back left sides of the property. Mr. Groves testified that the property's back yard drops off dramatically, and that there was a natural swale at the bottom of the yard that stays wet. He testified that given the slope of the property, the building restriction lines, and the well and septic setbacks, there is no other place on the property to locate the proposed garage, later stating that there is only a "narrow area" to work with on the property. Mr. Groves testified that because there is no other place on the property to locate an accessory structure, Mr. Matheson will not be able to construct additional accessory structures in the future, and that for that reason, he needs to make the proposed garage work.

8. Mr. Matheson testified that he built a house on the subject property in 2023. He testified that it is a four bedroom house with a first floor, second floor, and basement.<sup>1</sup> Mr. Matheson testified that there is no recreational space in his house and that he does not have a deck. Mr. Matheson testified that in addition to housing vehicles and tools, the proposed garage building would also provide him with insulated space that he could use as recreational space and to hang out with friends. He testified that he has three vehicles and a motorcycle, and that his father might like to house a convertible and possibly restore a boat in the garage.

In response to a Board question asking about the physical characteristics of his property that require a variance, Mr. Matheson testified that his abutting neighbor to the right has a building that is similar to, but slightly smaller than, the building he is proposing. He provided the Board with photographs of four nearby structures, including a photograph of his next door neighbor's "shed" (Exhibit 10(a)), a photograph of a roofed but open structure three houses away (Exhibit 10(b)), a photograph of a structure located two streets over (Exhibit 10(c)), and a photograph of the County-owned "Beauty Spot,"<sup>2</sup> which he indicated is located two blocks away (Exhibit 10(d)). Mr. Matheson testified that he lives in a rural, agricultural area outside of Poolesville, where the average lot size is more than an acre.

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<sup>1</sup> The Petitioner's Statement states that his house is 4,385 square feet, but at the hearing, Mr. Matheson testified that it was 3,385 square feet, later stating in response to a Board question about this discrepancy that he may have his numbers incorrect.

<sup>2</sup> The County's website states that the Poolesville Beauty Spot is a County-owned facility accepting bulk trash and located in the Poolesville Highway Maintenance Depot at 19200 Jerusalem Road. See <https://www.montgomerycountymd.gov/DEP/trash-recycling/facilities/poolesville.html>.

Mr. Matheson testified that the proposed garage will not be visible from the street, and will be painted green so that it will not be an eyesore. He testified that it would be substantially hidden from view by his house and by trees, and that his neighbor to the right encouraged its construction. In response to a Board question asking why the requested variance was the minimum necessary to overcome the practical difficulty that full compliance with the Zoning Ordinance would cause him, Mr. Matheson testified that having a structure such as the proposed garage had been a plan of his since before purchasing the subject property, that he had compared the cost and feasibility of constructing a two-car garage versus the proposed structure, and that the proposed structure was more cost effective and would meet his long-term needs.

In response to a Board question asking if he could finish his basement to meet his recreational needs, Mr. Matheson testified that because of the grading at the rear of the house, the basement could flood, noting that it had flooded several times during construction. Thus Mr. Matheson testified that finishing the basement was not feasible.

In response to a Board question asking about the sizes of the structures shown in the photographs at Exhibits 10(a)-(d), Mr. Matheson testified his neighbor's building shown in Exhibit 10(a) is 30' x 40' (1,200 square feet). In response to a Board observation that the building shown in Exhibit 10(b) is not enclosed, Mr. Matheson testified that this picture was provided to show the nature of the rural agricultural area in which his property is located. In response to a Board question asking if he knew the depth of the structure shown in Exhibit 10(c), Mr. Matheson testified that it is a four-bay agricultural open carport. He estimated that it is 50 feet long and 20 feet deep, and stated that a few cars and a camper are kept there. Finally, with respect to the photograph at Exhibit 10(d), Mr. Matheson testified that it is the "County Beauty Spot," that it is located just up the road from his property, and that this photograph was also intended to show that he lives in an agricultural area.

In response to another Board question asking again why the requested variance was the minimum necessary to overcome the practical difficulties posed by the unusual circumstances on the property, and specifically asking what the unusual conditions were that necessitated a 1,440 square foot accessory building, Mr. Matheson testified that his is the only property in the neighborhood on well and septic. In response to a Board question asking if he could have two 600 square foot structures instead, Mr. Matheson testified that having two buildings would be twice as expensive, and further testified that he wanted to be able to use the existing driveway to access the accessory building.

Mr. Matheson testified that there is a farm to the rear of his property, and that there are residences on both sides. He testified that his neighbors do not object to the proposed construction, noting that he lives in a "lax" neighborhood.

In response to a Board suggestion that if the proposed garage were made a part of the house, it would be allowed, Mr. Matheson testified that he might be able to extend a long breezeway from his walkout basement to the proposed building. He emphasized again that his proposed garage building surpasses all of the required setbacks, but that

he needs a variance for its square footage. In response to a Board question about practical difficulties, Mr. Matheson cited the property's grading and trees. Mr. Matheson testified that his existing garage is 370 square feet, and that it only fits one car. He testified that a 600 square foot garage would only fit two and a half cars, and that the location of his driveway and the narrowness of his property keep him from being able to extend his current garage. Mr. Matheson testified that his property is located at the bottom of a cul-de-sac, and that waves of water come down his street and rush around his house. Finally, in response to a Board question asking if a 20' x 40' garage would work, Mr. Matheson testified that it would be too small, noting that he has a small utility trailer and a John Deere with a trailer.

## **FINDINGS OF THE BOARD**

Based on the binding testimony and the evidence of record, the Board finds that the requested variance can be granted because it 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.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 Petitioner's testimony and the photographs of nearby accessory structures in the record at Exhibits 10(a)-(d), that the Petitioner's proposed garage structure substantially conforms with the established or traditional development pattern of his street or neighborhood, 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 no evidence in the record to suggest that the Petitioner is responsible for the development pattern of accessory structures on surrounding properties. Accordingly, the Board finds 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 footprint limitation in the Zoning Ordinance would pose a practical difficulty for the Petitioner by restricting his ability to construct an accessory structure large enough to meet his needs and commensurate with others in his neighborhood. The Board further finds that the requested variance is the minimum needed to allow the Petitioner to construct the proposed garage, and thus to allow him to have an accessory structure that comports with others on nearby properties.

On the basis 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 construction of the proposed accessory structure continues the residential use of this property, and thus finds that the requested variance can be granted without substantial impairment to the intent and integrity of the general plan and applicable 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.*

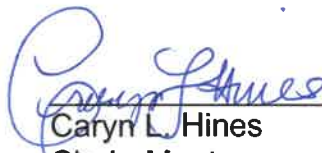
The Board finds, based on the Statement and the testimony of both Mr. Groves and Mr. Matheson, that granting the requested variance, needed to allow the construction of the proposed accessory structure, will not be adverse to the use and enjoyment of abutting or confronting properties, not only because the proposed structure substantially conforms with other nearby accessory structures, but because the view of the structure will be minimized by the Petitioner's house, existing trees, and elevation differences. See Exhibit 9. The Board further finds in support of this that the Mr. Matheson testified that his neighbors do not object to the proposed construction. Finally, the Board finds that the variance proceedings were properly noticed and the variance sign was properly posted, that the record contains no opposition to the grant of the requested variance, and that no one appeared at the hearing in opposition to the variance. In light of the foregoing, the Board finds that granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties, in satisfaction of this element of the variance test.

Accordingly, the requested variance from the footprint limitation, needed to allow construction of the proposed garage structure, 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)-(i).

Therefore, based upon the foregoing, on a motion by Alan Sternstein, seconded by Richard Melnick, Vice Chair, with Amit Sharma and Donald Silverstein in agreement, and with Caryn L. Hines, Chair, not 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 16th 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.

