

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5667

PETITION OF WILLIAM S. AND ISABEL G. GLADING

(Hearing held October 31, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, November 30, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose construct a one-story addition that requires a one (1) foot variance as it is within six (6) feet of the side lot line. The required setback is seven (7) feet.

J. Michael Conroy, Esquire, and Paul Treseder, the petitioners' architect, appeared with the petitioners at the public hearing.

The subject property is Lot 17, Block 8, Sumner Subdivision, located at 4827 Fort Sumner Drive, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 00611124).

Decision of the Board: Requested variance **granted.**

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners testified that they propose to demolish an existing one-story addition and rebuild a one-story addition at the same location. The petitioners testified that the house is approximately 50 years old and that they have resided in the home for 18 years.
2. The petitioners testified that their lot is exceptionally narrow as compared to the neighboring lots in their immediate vicinity and that approximately 86% of the lots in subdivision are wider than the petitioners' lot. See, Exhibit Nos. 10(a) through 10(c).
3. The petitioners testified that the foundation for the existing addition must be redone because the foundation would not support new construction and that the variance is required to accommodate for the width of the walls of the new addition.

4. The petitioners testified that they have shown their plans for the addition to the most impacted neighbor on Lot 16, Ian Porter, and that Mr. Porter expressed no objections to the variance request.
5. Mr. Treseder testified that the requested variance is needed to accommodate a chimney that is located in the existing structure. Mr. Treseder further testified that the stone materials proposed for the front of the addition would be in harmony with the residence and that the addition would be screened by the existing vegetation.

FINDINGS OF THE BOARD

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The petitioners' lot is one of the narrowest in the subdivision and the proposed addition will be rebuilt at the same site, using the same footprint as the existing one-story addition. The Board finds that the exceptional narrowness of the lot, and that the proposed construction on the existing footprint with a similar structure are circumstances that are peculiar to the property, and that the strict application of the regulations would result in practical difficulties for the petitioners were the variance to be denied.

(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.

The Board finds that the requested variance for the reconstruction of a one-story addition is the minimum reasonably necessary to overcome the unique circumstances of the property.

(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

The Board finds that the rebuilt one-story addition will not materially change the view of the property for the neighboring homes and that the variance will not be detrimental to the use and enjoyment of the adjoining and neighboring

properties. The record contains no correspondence or testimony in opposition to the variance request.

Accordingly, the requested variance of one (1) foot from the required seven (7) foot side lot line setback for the construction of a one-story addition is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, and the testimony of their witnesses and the representations of their attorney, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed in accordance with plans entered in the record as Exhibit Nos. 4 and 5(a) through 5(d).

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.

On a motion by Donna L. Barron, seconded by Angelo M. Caputo, with Allison Ishihara Fultz, Louise L. Mayer and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 30th day of November, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

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 (see Section 59-A-4.63 of the County Code). 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.