

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. A-6424

PETITION OF CATHRYN S. WOLF

OPINION OF THE BOARD

(Opinion Adopted December 11, 2013)
(Effective Date of Opinion: February 21, 2014)

Case No. A-6424 is an application for a variance to construct a new home. The proposed construction requires a twelve (12) foot variance as it is within twenty-five (25) feet of the front lot line. The required setback is thirty-seven (37) feet under Section 59-C-1.323(a).

The Board of Appeals held a hearing on the application on December 11, 2014. Cathryn Wolf appeared and testified in support of her application. Bill Hutchins, the architect working with the Wolfs, also appeared and testified.

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

EVIDENCE PRESENTED

1. The subject property is Lot 34, Meadowbrook Village Section 2 Subdivision, located at 7622 Lynn Drive, Chevy Chase, Maryland, 20815, in the R-60 Zone. It is subject to a 37-foot established building line, based upon the locations of three houses west of the subject property along Lynn Drive. The proposed house would be located 25 feet from the front lot line, in conformance with the minimum front setback for the zone. [See Exhibits 3, 4, 4(b)].

2. Ms. Wolf testified that she purchased two lots which were combined into a single lot that comprises 10,229 square feet through a minor subdivision. She corrected information in her written statement to say that she intends to build an approximately 2000 square-foot house rather than a 3000 square foot house.

3. Ms. Wolf testified that the lot is unusual in shape because it is long and narrow. She stated that it is also exceptionally shallow, with extreme sloping and woods, and that it is located adjacent to Zimmerman Park. Ms. Wolf stated that there is a very small allowable building footprint, to the extent that without a variance, the largest structure that could be built there would range in width from 9 to 27 feet.

4. Ms. Wolf testified that effective December 20, 2007, the Town of Chevy Chase granted her application for a variance of 12 feet from the 37-foot established front building line, and that permission from the Town is still in effect.

5. Ms. Wolf stated that she and her husband have been living in the house next door to the subject property, that she and her husband wish to build a small retirement home that "disrupt[s] the environment as little as possible and...nestles into the woods" [Transcript, p. 11] on the subject property, and that her son and his family will purchase the Wolfs' current home and move in there. In response to a Board question, Ms. Wolf confirmed that the subject property abuts "a paper right-of-way" for Lynn Drive. [Transcript, p. 11].

6. Mr. Hutchins stated that the Wolfs' current house does not conform to the building restriction line, "So they're actually asking to be well back from the street where their existing house is." [Transcript, p. 9]. In response to a Board question, Mr. Hutchins stated that the grade on the subject property is quite severe, rising twelve feet from Maple Avenue to the buildable area on the lot.

FINDINGS OF THE BOARD

Under Section 59-G-3.1 of the Zoning Ordinance, the Board of Appeals may grant petitions for variances, as authorized in Section 59-A-4.11(b), upon proof by a preponderance of the evidence that:

- (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 Board finds that the subject property is shallower than neighboring lots and has steep slopes, and that the majority of its frontage on Lynn Drive is along a portion of that road that is, in reality, a paper street. The Board further finds that the application of a 37-foot established building line from Lynn Drive at the front of this property and a 20-foot rear setback would allow a building envelope that would only accommodate a house ranging in depth from 9 feet to a maximum of

27 feet, in effect making the lot unbuildable. The Board finds that not being able to build a house on the lot would pose a practical difficulty for the Applicant.

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

The Board finds that the requested variance, which would allow the proposed house to be located at the minimum 25-foot setback for the R-60 Zone, is the minimum reasonably necessary to allow a house to be built on the lot.

- (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; and

The Board finds that granting the variance and allowing construction of a 2000 square-foot home on the subject property permits a residential use on the subject property that is entirely consistent with the master plan.

- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties. These provisions, however, shall not permit the board to grant any variance to any setback or yard requirements for property zoned for commercial or industrial purposes when such property abuts or immediately adjoins any property zoned for residential purposes unless such residential property is proposed for commercial or industrial use on an adopted master plan. These provisions shall not be construed to permit the board, under the guise of a variance to authorize a use of land not otherwise permitted.

The Board finds that the variance will allow construction of the proposed house in a location intended to minimize removal of trees from the lot and that the house will be well screened from neighboring properties by existing trees on the lot and, to the southeast, by Zimmerman Park.

Accordingly the requested variance of 12 feet from the established building line is granted, subject to the following conditions:

1. The Applicant shall be bound by her testimony and exhibits of record, and the testimony of her witnesses, to the extent that such evidence and testimony are identified in this opinion.
2. Construction must be completed according to the plans entered in the record as Exhibit Nos. 4(a & b) and 5(a-f).

On a motion by, David K. Perdue, Vice-Chair, seconded by Catherine G. Titus, Chair, with Stanley B. Boyd, John H. Pentecost and Carolyn J. Shawaker 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.



Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 21st day of February, 2014.



Katherine Freeman
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 (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. 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-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.