

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5581

PETITION OF RAJI TRIPATHI-CHIRAMAL
(Hearing held May 16, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, July 25, 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 petitioner proposes to construct a one-story addition that requires an eight (8) foot variance as it is within seventeen (17) feet of the front lot line. The required setback is twenty-five (25) feet.

The subject property is Lot 10, Block 18, Ayrilawn Subdivision, located at 9009 Ewing Drive, Bethesda, Maryland, in the R-60 Zone, (Tax Account No. 580773).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to enclose an existing covered porch that is located in the northwest section of the lot.
2. The petitioner testified that the materials to be used in the enclosure of the porch will be glass and screen and that the enclosure would prevent her elderly father, who suffers from Alzheimers Disease, from wandering outside the property. The petitioner testified that the enclosure of the porch would ensure his safety and well-being by providing protection from the elements.
3. The petitioner testified that the enclosure of the porch would not expand or change the porch's existing footprint in any way and that the variance requested is not for the entire length of the property, but only the length of the porch.
4. The record contains letters of support from property owners Brett G. Coughlin and Richard Paschal, included in the record as Exhibit No. 12.
5. The record also contains a letter from Leslie Biesecker, a neighboring property owner, in opposition to the variance request, that states that the previous improvements to the property have been unsightly. See, Exhibit No. 11.

FINDINGS OF THE BOARD

Based on the petitioner's 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 of the Zoning Ordinance 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 applications 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 existence of the covered porch since 1995 is an exceptional circumstance peculiar to the property. The enclosure of the porch will be within the porch's existing footprint as previously approved by the Board. The Board finds that the strict application of the setback requirements would result in practical difficulty to the applicant were the variance not granted because it would preclude the enclosure of an existing legally constructed structure.

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

The Board finds that the variance requested for the enclosure of the existing covered porch 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 Board finds that the proposed construction would 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 enclosure of the existing porch will have no adverse visual impact on the adjoining and neighboring properties and would not be detrimental to the use and enjoyment of the neighboring properties.

Accordingly, the requested variance of eight (8) feet from the required twenty-five (25) foot front lot line setback for the proposed construction of a one-story addition (sunroom) is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, to the extent that such evidence and representations are identified in this Opinion.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 5, 6(a) through 6(d), 14 and 15.

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The Board adopted the following Resolution:

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

On a motion by Louise L. Mayer, seconded by Angelo Caputo, with Donna L. Barron, Mindy Pittell Hurwitz 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 25th day of July, 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 of 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

