

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5587

PETITION OF RAJAGOPAL S. AND ANURADHA IYER
(Hearing held May 23, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, August 22, 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 to construct a one-story addition that requires a 6.88 foot variance as it is within 21.50 feet of the established front lot line. The required setback is 28.38 feet.

Glen Geramifar, the petitioners' architect, also attended the public hearing.

The subject property is Lot 8, Block 11, Bradmoor Subdivision, located at 5905 McKinley Street, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 151981421).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a one-story addition in the western side yard. The petitioner testified that the property is a corner lot, located at the intersection of Rayburn Road and McKinley Street, with the residence oriented to front on McKinley Street.
2. The petitioner testified that the shape of the property is not rectangular and that the lot's property lines are not perpendicular to each other. The petitioner testified that the property's usable space is limited because it is a corner lot and that the only area that the addition could be built is in the western side yard.
3. The petitioner testified that the addition could not be located in the eastern side yard because the residence's bedrooms and the garage are located in this area and an addition in this area of the lot would disrupt the internal function of the house. The petitioner testified that because of the siting of the house, the proposed location is the only place that the addition could be built.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) 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.

1. The Board finds that the property is a corner lot, but that the shape of the property is not exceptionally peculiar or unique and has no existing exceptional topographical conditions that are peculiar to the property.
- 2 The Board finds that the siting of the residence and internal layout of the house are not conditions that satisfy the requirements for a variance stated above. The Board also notes that the petitioner's lot has a large amount of open space in the eastern side yard as shown in Exhibit No. 4.

Since the petition does not meet the requirements of Section 59-G-1.3(a), the Board finds that it does not need to consider the other requirements for granting a variance. Accordingly, the requested variance of 6.88 feet from the required 28.38 foot established front building line for the construction of a one-story addition is denied.

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 Mindy Pittell Hurwitz, seconded by Donna L. Barron, with Louise L. Mayer, Angelo M. Caputo 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 22nd day of August, 2001.

Katherine Freeman
Executive Secretary to the Board

NOTE:

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

