

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5632

PETITION OF MARGARET BRODNICK

(Hearing held September 12, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, October 16, 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 Sections 59-C-1.323(a) and 59-B-3.1. The petitioner proposes to construct a covered porch that requires a two (2) foot variance as it is within twenty (20) feet of the front lot line. The required setback is twenty-two (22) feet.

Alan and Margaret Brodnick attended the public hearing.

The subject property is Lot 11, Block 13, Kensington Estates Subdivision, located at 4424 Ambler Drive, Kensington, Maryland, in the R-60 Zone (Tax Account No. 01205732).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners testified that they propose to construct a 5 x 8.9 foot covered porch.
2. The petitioners testified that their existing steps were crumbling and that the proposed construction would replace and expand the steps. The petitioners testified that when they inquired about expanding the steps, that they were not aware that the expansion of the porch's roof would require a variance.
3. The petitioners testified that the front of their property has a 5-foot upward slope from the street and that the front yards of the neighboring properties are flat. The petitioners testified that their lot is sited at the peak of a curve and that the usable space in their front yard is shallow because the road moves inward at the front of their lot.
4. The petitioners testified that the proposed porch would be similar to other porches in the neighborhood and that they have spoken with their neighbors and that the neighbors support the variance request.

FINDINGS OF THE BOARD

Based upon the petitioners' 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.

The Board finds that the petitioners' lot is not unique or peculiar and has no existing exceptional topographical conditions. The Board finds that the petitioners' property is consistent in shape and size with the other lots in the neighborhood, and is in fact slightly larger than several neighboring properties.

The Board further finds that the existing topographical conditions of the property, as stated by the petitioners, would not preclude the construction of a porch on the property or cause the need for a front yard variance.

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 two (2) feet from the required twenty-two (22) foot required front lot line setback for the proposed construction of a covered porch 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 Louise L. Mayer, seconded by Angelo M. Caputo, with Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Donna L. Barron was necessarily absent and did not participate in this 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 16th day of October, 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 Rules of Procedure.