

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850  
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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

**Case No. A-6101**

**PETITION OF DAVID T. ISAACS AND PENNY L. BISK**

(Hearing held October 19, 2005)

**OPINION OF THE BOARD**

(Effective date of Opinion, December 2, 2005)

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 the construction of a one-story addition that requires a 5.92 foot variance as it is within 68.72 feet of the established front building line. The required established building line is 74.67 feet.

Steven Vance, an architect, represented the petitioners at the public hearing.

The subject property is Lot 22, Block 1, Rose Hill Estates Subdivision, located at 7601 Barnum Road, Bethesda, Maryland, 20817, in the R-200 Zone (Tax Account No. 01859137).

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

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioners propose the construction of a 24 x 58.3 foot one-story addition at the rear of the residence.
2. Mr. Vance testified that the subject property is a thru-lot, which fronts on Barnum Road at its eastern boundary and Bradley Boulevard at its western boundary. Mr. Vance testified that the front of the house faces Barnum Road and that it is located sited 81.25 feet from the property line. Mr. Vance testified that there is no access to Bradley Boulevard from the property, but that the proposed construction must meet an established building line from Bradley Boulevard.
3. Mr. Vance testified that six lots were used in the calculation of the established building line, [Lots 9, 10, 21, 23, 25, 27], and that the distance that the houses are sited from Bradley Boulevard range from 46.52 feet to 99.45 feet. See, Exhibit No. 4(c) [average setback study]. Mr. Vance testified that three of the existing homes are currently

located closer to Bradley Boulevard than would the proposed addition. Mr. Vance testified that the application of the established building line to the subject property disproportionately impacts the total buildable area on the lot and that the established building line requirement results in a buildable area of only 10% of the property's total area. Mr. Vance testified that the proposed addition would replace an existing porch.

4. The petitioners testified that they have resided in the neighborhood for over 25 years and that the plans for the new construction have been shown to both neighbors on either side of their property.

### **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 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' property is a thru-lot, which fronts on Barnum Road and Bradley Boulevard. The subject property has no access to Bradley Boulevard. The proposed addition must meet an established building line requirement from Bradley Boulevard. The application of the established building line adversely impacts the subject property and reduces the buildable area of the property to 10% of the lot's total area. The Board finds that these are exceptional circumstances peculiar to the subject property and that the strict application of the zoning regulations would result in practical difficulties to and an undue hardship upon the property owners.

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

The Board finds that the variance requested for the construction of a one-story addition is the minimum reasonably necessary.

- (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 will continue the residential use of the property and that 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 proposed addition will not be located any closer to Bradley Boulevard than some of the existing homes and that the variance will not be detrimental to the use and enjoyment of the neighboring and adjoining properties.

Accordingly, the requested variance of 5.92 feet from the required 74.67 foot established front building line 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 witness, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 11 [site plan with setbacks] and 5(a) through 5(e) [elevations and floor plans].

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.

Board member Caryn L. Hines did not participate in the vote of this Resolution. On a motion by Angelo M. Caputo, seconded by Wendell M. Holloway, with Donna L. Barron and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the foregoing Resolution.

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Allison Ishihara Fultz  
Chair, 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 2nd day of December, 2005.

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Katherine Freeman  
Executive Director

**NOTE:**

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.

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.