

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5731

PETITION OF PATRICK AND PAMELA LANE

(Hearing held March 20, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, April 26, 2002)

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 two-story addition that requires a twelve (12) foot variance as it is within eighteen (18) feet of the front lot line. The required front lot line setback is thirty (30) feet.

Stacy Plotkin Silber, Esquire, and David O. Almy, architect, represented the petitioners at the public hearing.

The subject property is Lot 6, Block 105, Garrett Park Subdivision, located at 4701 Albemarle Avenue, Garrett Park, Maryland, in the R-90 Zone (Tax Account No. 00057370).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a 16.6 x 4 foot two-story addition, which would include a vestibule and a covered porch at the front of the residence.
2. Ms. Silber stated that the property is a shallow, trapezoidal shaped lot, located at the intersection of Albemarle and Rokeby Avenues. See, Exhibit No. 4. Ms. Silber stated that the shape of the lot prevents new construction elsewhere on the property.
3. Mr. Almy testified that the property is an unusually shaped lot and that no other property on the street is similarly shaped. Mr. Almy testified that the proposed construction would be aligned with the other houses on the same side of the street and that the architectural design of the addition would be in harmony with the other homes in the neighborhood. See, Exhibit No. 11(f).
4. The petitioners testified that they have spoken with their neighbors and that their neighbors support the variance request. The variance request has received that the approval of the Town Council of Garrett Park.

FINDINGS OF THE BOARD

Based on the petitioners' 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 shallow, trapezoidal shaped lot. The Board finds that the property's exceptional shape and shallowness are conditions that are peculiar to the property and that the strict application of the regulations would result in practical difficulties for and an undue hardship upon the property owners were the variance to be denied.

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

The Board finds that the variance requested 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 proposed construction would 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 record contains no testimony or correspondence in opposition to the variance request. The variance has received the approval of the Town Council of Garrett Park. The Board finds that the architectural design of the addition would be in harmony with the other homes in neighborhood and the variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of twelve (12) feet from the required thirty (30) foot front lot line setback for the construction of a two-story addition is granted subject to the following conditions:

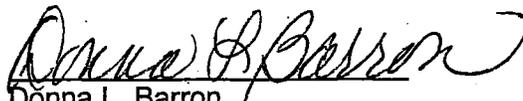
1. The petitioners shall be bound by all of their testimony and exhibits of record, the testimony of their witnesses and representations of their attorney, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.

2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 7(a) through 7(f).

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 Allison Ishihara Fultz, with Angelo M. Caputo and Donna L. Barron, in agreement, the Board adopted the following Resolution. Donald H. Spence, Jr., Chairman was necessarily absent and did not participate in this Resolution.



Donna L. Barron
Vice 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 26th day of April, 2002



Katherine Freeman
Executive Secretary to the Board

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.