

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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(240) 777-6600

Case No. A-6446

PETITION OF THOMAS AND CHRISTINE SCHIEDEL

OPINION OF THE BOARD

(Opinion Adopted December 17, 2014)
(Effective Date of Opinion: January 22, 2015)

Case No. A-6446 is an application for a variance of the maximum 25% lot coverage allowed in the R-200 Zone under Section 59-4.4.7.C.2(a) of the Zoning Ordinance. The proposed construction of a first floor room addition exceeds the maximum lot coverage by 3.85%. The Petitioners request 30% lot coverage.

The subject property is Lot 63, Block S, Carderock Springs Subdivision located at 7021 Buxton Terrace, Bethesda, Maryland, 20817, in the Zone R-200.

As authorized by Section 59-7.3.2.A, the Board of Appeals held a hearing on the application on December 17, 2014. Michael Greigg, an architect with Soe Lin Associates, LLC, appeared in support of the application. Christine Schiedel also appeared.

Decision of the Board: Requested Variance Granted

EVIDENCE PRESENTED

1. Mr. Greigg testified that the Petitioners seek to build a one-story addition that would connect the existing house and the existing detached garage.
2. Mr. Greigg testified that the subject property is zoned R-200 cluster and contains 10,266 square feet, rather than the 20,000 square feet that is the usual minimum for the R-200 zone. He testified that other properties around the cul de sac average around 12,000 square feet.
3. In response to a Board question, Mr. Greigg testified that the current coverage on the lot is within 10-15 square feet of 25%.

4. Mr. Greigg testified that the abutting lot to the north of the subject property is in the R-90 zone where 30% lot coverage is allowed.
5. Mr. Greigg testified that the Petitioners are allowed approximately 2,550 square feet of lot coverage on their 10,266 square-foot R-200 cluster property, the abutting R-90 property is allowed approximately 3,000 square feet, and if the Petitioners had a normal, 20,000 square-foot R-200 lot, they would be allowed 5,000 square feet of lot coverage. He stated that if the Petitioners had a 12,000 square-foot R-200 cluster lot, they would be allowed 3,000 square feet of lot coverage.
6. He testified that the variance would allow an additional total of 248 square feet of lot coverage.
7. Mr. Greigg introduced Exhibit No. 10, which shows the lots on the Buxton Terrace cul de sac and that of the 16 lots, the Petitioners' property is the second smallest.
8. Mr. Greigg stated that the property is nonconforming because there is a detached garage in the front yard, and that "The whole neighborhood is built that way." He further stated that the proposed addition would correct the nonconformity, which a number of neighboring properties have already done. [Transcript, December 17, 2015, page 7].
9. Ms. Scheidel pointed out which other properties have built the type of addition she proposes. [Transcript, December 17, 2015, page 7-8].

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 59-7.3.2.E as follows:

1. *7.3.2.E.2.a.i. ...exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;*

Based upon Mr. Greigg's testimony and on Exhibit No. 10, the Board finds that the subject property is one of the smallest in the neighborhood.

2. *7.3.2.E.2.a.v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;*

Based upon Mr. Greigg's and Ms. Scheidel's testimony, the Board finds that the subject property's detached garage located in the front yard follows a traditional development pattern in the neighborhood, and that the proposed addition follows an emerging pattern of development to correct that nonconformity, by attaching the garage.

3. *7.3.2.E.2.b the special circumstances or conditions are not the result of actions by the applicant;*

The Petitioners are not the original owners of the house and therefore are not responsible for the location of the garage.

4. *7.3.2.E.2.c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;*

The Board finds that the requested increase in lot coverage is minimal – amounting to some 248 square feet above the standard.

5. *7.3.2.E.2.d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and*

The Board finds that construction of the addition continues the residential use of the property and is entirely consistent with the applicable master plan.

6. *7.3.2.E.e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*

The Board finds that the addition joining the garage to the main house, similar to several others on the cul de sac, will not impact abutting or confronting properties.

Accordingly, the requested variance to allow 30% lot coverage 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. 4 and 5(a) through 5(d).

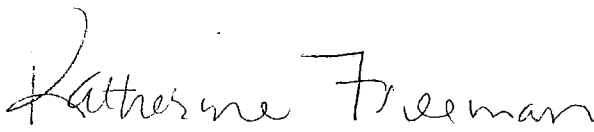
Therefore, based upon the foregoing on a motion by David K. Perdue, Chair, seconded by Edwin S. Rosado, with Stanley B. Boyd, John H. Pentecost and Carolyn J. Shawaker, Vice-Chair, in agreement, the Board adopted the following Resolution:

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.



David K. Perdue
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 22nd day of January, 2015.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date 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. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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.