

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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(240) 777-6600

Case No. A-6475

PETITION OF VICTOR MASTROIANNI AND MARY CECILE NEVILLE

OPINION OF THE BOARD

(Public Hearing Date: November 4, 2015)
(Effective Date of Opinion: November 23, 2015)

Case No. A-6475 is an application by Victor Mastroianni and Mary Cecile Neville for variances to allow the construction of dormer additions on the front and rear of the upper level of their house. The proposed construction requires a 5.16-foot variance from the 20-foot rear lot line setback required by Section 59-4.4.9.B of the Montgomery County Zoning Ordinance, and a two-foot variance from the 25-foot front lot line setback required by Section 59-4.4.9.B.

The Board of Appeals held a hearing on the application on Wednesday, November 4, 2015. The Petitioners appeared in support of their application. Jeff Broadhurst and Hisao Yatsuhasi, their architects, also appeared.

Decision of the Board: Requested Variances Granted.

EVIDENCE PRESENTED

1. The subject property is Lots 24, 25, 26, Block 1, 0006 Subdivision located at 111 Valley Road, Bethesda, Maryland, 20916, in the R-60 Zone.
2. The subject property is trapezoidal in shape and contains 3,759 square feet. The rear lot line angles sharply from west to east. Other lots in the subdivision are rectilinear. The property's buildable area is just 8.75 feet deep on its eastern side. [Exhibit No. 3, and Broadhurst testimony, Transcript, November 4, 2015, p. 4-5].

3. The existing house was originally built in 1928. The two existing upper floor bedrooms in the house do not meet current building code standards for ceiling height, and the existing windows for those rooms do not provide the clear opening area required by the International Residential Code. The Petitioners purchased the property in 2011. The existing house extends into both the front and rear setbacks. The proposed addition will be entirely within the footprint of the existing house. [Exhibit No. 3, pp. 1-2, Transcript, p. 4-6].

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. *Section 59.7.3.2.E.2.a. one or more of the following unusual or extraordinary situations or conditions exist:*

Section 59.7.3.2.E.2.a.i exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;

The Board finds that the subject property has a unique, trapezoidal shape. The Board further finds that the 3759 square-foot area of the lot is substandard for the R-60 Zone. The small lot size and angle of the rear property line from west to east results in extremely constrained buildable area that is just 8.75 feet deep at its eastern side.

2. *Section 59.7.3.2.E.2.b the special circumstances or conditions are not the result of actions by the applicant;*

The existing house was built in 1928 and the Petitioners purchased the property in 2011 and are not responsible for the constrained building area or the fact that the existing house violates the setbacks.

3. *Section 59.7.3.2.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 constrained buildable area on the lot creates a practical difficulty for the Petitioners. The proposed construction, which is modest in scope, will occur entirely within the existing footprint of the house.

4. *Section 59.7.3.2.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 Petitioners desire to remain in their existing house and propose modest additions to allow them to do so. The Board finds that this continued residential use of their home is entirely consistent with goals of the Bethesda Chevy Chase Master Plan to "Perpetuate and enhance the high quality of life which exists in the Bethesda-Chevy Chase Planning Area," and to "protect the high quality residential communities through the Planning Areas".

5. *Section 59.7.3.2.E.2.e granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.*

The dormer additions, entirely within the footprint of the existing house, will not increase the impact of the subject property on abutting or confronting properties or be adverse to the use and enjoyment of those properties by their owners.

Accordingly, the requested variances to allow additions within 14.83 feet of the rear lot line and within 23 feet of the front lot line are **granted**, subject to the following conditions:

1. Petitioner shall be bound by their testimony, the testimony of their architects and exhibits of record, to the extent that such testimony and evidence are mentioned in this opinion; and
2. Construction shall be according to Exhibit Nos. 4(a-b) and 5 (a-n).

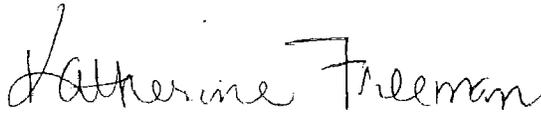
Therefore, based upon the foregoing, on a motion by John H. Pentecost, Vice-Chair, seconded by Stanley B. Boyd, with Edwin S. Rosado and Carolyn J. Shawaker, Chair, in agreement and Bruce A. Goldensohn necessarily absent:

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.



Carolyn J. Shawaker
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 23rd day of November, 2015.

A handwritten signature in cursive script that reads "Katherine Freeman". The signature is written in dark ink and is positioned above a horizontal line.

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.