

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/boa/>**

**CASE NO. A-6662**

**PETITION OF SIMON WATSON AND PAMELA NAVARRO-WATSON**

**OPINION OF THE BOARD**

**(Opinion Adopted September 2, 2020)  
(Effective Date of Opinion: September 11, 2020)**

Case No. A-6662 is an application for a variance needed to allow construction of a rear second floor addition. The proposed construction requires a variance of three (3) feet as it is within seventeen (17) feet of the rear lot line. The required setback is twenty (20) feet, in accordance with Section 59-4.4.9.B.2 of the Zoning Ordinance.

Due to COVID-19, the Board of Appeals held a remote hearing on the application on September 2, 2020. All participation was done through Microsoft Teams. Petitioners Simon Watson and Pamela Navarro-Watson participated in support of the requested variance, assisted by their architect, Eric Jarvinen.

Decision of the Board:                      Variance GRANTED.

**EVIDENCE PRESENTED**

1.     The subject property is Lot 29, Block 4, Chevy Chase Park Subdivision, located at 7418 Ridgewood Avenue, Chevy Chase, Maryland, 20815 in the R-60 Zone. It is an irregular, four-sided lot located on the west side of Ridgewood Avenue. While the property's front (eastern) and left side (southern) lot lines are perpendicular to one another, the property's right side (northern) lot line is set at an acute angle to the front lot line, such that the lot narrows from front to back (east to west), and the property's rear (western) lot line is set at an acute angle to the left side lot line, such that the property also narrows from left to right (south to north). The subject property has an area of 5290 square feet. See Exhibits 1, 3, and 4.

2. The Petitioners are seeking to convert an existing screened porch into a sunroom, and to add a second story addition on top of that structure. It is the second story addition that necessitates the variance request. The Statement submitted with the variance request, in the record at Exhibit 3, succinctly describes this problem:

The right rear corner of the existing screened porch-future-sunroom extends approximately 3 feet beyond the 20-foot rear setback line. Though the enclosure of the screen porch (converting it to a sunroom) is allowed by zoning, it is unfortunate that our planned bathroom directly above it, aligned with and within the planimetric confines of the existing porch-future-sunroom, violates the rear yard setback.

3. The Statement describes the lot as having an "odd shape, small size, and setback limitations." See Exhibit 3. It elaborates on this description, as follows:

Our lot is in the R-60 zone, and the lot size of 5,290 square feet is 710 square feet less than the minimum lot size fixed by the zoning ordinance. The unusual lot shape, the rear property line and its 20-foot setback line run at an acute angle with respect to the rear of our house (see attachment 2 house location survey), represents a constraint to the reasonable use of the existing footprint for our proposed improvements.

We observe that the existing right rear corner of the main house also extends beyond the rear setback line, this evidently being permitted by the jurisdiction having authority when the house was built in 1933 (lot deeded prior to 1928). We contend that since the front of the house aligns with the other house fronts on our block (at the front yard setback line), and side yard widths are for the most part compliant, that if the additional 710 square feet of lost lot size were added to the rear of our property, our proposed project would be permitted as of right in the R-60 zone.

See Exhibit 3. The site plan shows that the rear setback line runs through the right rear corner of the existing house and the right rear corner of the existing porch/proposed addition. See Exhibit 4.

4. The Statement at Exhibit 3 makes clear that the Petitioners are not responsible for the constraints imposed on the development of this property by its size and shape, and that the proposed addition will comply with applicable height limitations and will not expand the footprint of the existing house, asserting as a result that the grant of the variance would not impact the intent or integrity of the applicable general or master plan:

...we suggest that the peculiar shape of our lot, and its small size, are the two foremost factors resulting in our inability to add on to our existing house foot print as of right without a variance. We have not created these two circumstances, though coupled with the wording of zoning ordinance, we find it anomalous that a

first-floor portion of our house to be re-purposed as an enclosed sunroom is allowed, while an additional structure directly above it is not allowed. It is of note that the proposed second floor addition would not be in violation of any building height restriction in the Zoning Ordinance.

\* \* \* \* \*

Since the proposed addition does not change/add to the footprint of the house, we believe that it will have no effect on the intent and integrity of the general plan and the applicable master plan.

5. The Statement indicates that the Petitioners have contacted their neighbors, and that their neighbors support their proposal to build an addition over their existing porch. See Exhibit 3. The Statement discusses at length the many reasons that the Petitioners assert that granting the requested variance to permit construction of their proposed addition will not have an adverse effect on the use and enjoyment of abutting and confronting properties, as follows:

We recognize that our proposed addition adds to the apparent "bulk" of our home. We believe that the effect for our neighbor Robin Richardson, at 7416 Ridgewood Avenue, will be minimal, since their house is higher than our house due to the rather steep incline on the street, and so their view is essentially above our house and oriented to their back yard. The views of our other neighbors, Benjamin Butler, at 4202 Leland Street, Erica Frohman, at 4204 Leland Street, and Howard and Tricia Sachs, at 4200 Leland Street, abutting and/or with a view of our back yard, is obscured by the tall trees in the back yard between our houses. In any case, the height of our house with the proposed addition is no higher than the present peak of the house, and so does not obstruct their view any more than at present. Finally, since our proposed addition is entirely to the rear of our house, the structure will have no impact on neighbors confronting our house on Oak Lane and Woodbine Street.

We are superimposing the bathroom above the present screened porch-future sunroom structure below, to the rear of the master bedroom and behind a low attic area that is to be raised to become our closets and laundry. This seems the most logical arrangement for these spaces, and of the most practical design for construction. We feel that it is the most aesthetically pleasing as well, superimposing the walls of the new bathroom area directly on top of the sunroom below. Not allowing this second-floor structure to be entirely over the sunroom below is an awkward design that is structurally complex and spatially restricting. As we are attuned to our neighbors' aesthetic sensibilities within their viewscape, we believe such a design also would be visually objectionable. The proposed structure is designed to be architecturally compatible with the rest of the house and will maintain with the general character of the neighborhood. We have contacted our neighbors who would visually be affected by our project, and they support our proposal, to build over the entire screened porch footprint.

6. At the hearing, Petitioner Simon Watson testified that the subject property has an odd shape and is small. He testified that the house on the subject property was built in 1933, and does not meet the required setbacks. In response to a Board question, he confirmed that the requested variance is for one corner of the addition they propose to construct on top of the existing screened porch.

7. Eric Jarvinen, the Petitioners' architect, testified that the County's Department of Permitting Services told him that because the existing porch was screened, it could be enclosed as a sunroom without the need for a variance.

## CONCLUSIONS OF LAW

Based on 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 shape with sharply angled rear and right side lot lines that result in an unusually shallow buildable envelope, such that the right rear corner of the existing house and the right rear corner of the existing porch both encroach on the required rear setback. In addition, the Board finds that with an area of 5,290 square feet, the subject property is significantly substandard in size for the R-60 zone, which has a 6,000 square foot minimum. The Board finds that these circumstances constitute an extraordinary condition that is peculiar to this property. See Exhibits 3 and 4.

2. *Section 59-7.3.2.E.2.b. the special circumstances or conditions are not the result of actions by the applicant;*

The Statement indicates that the subject property was deeded prior to 1928 and that the existing house was built in 1933. See Exhibit 3. Accordingly, the Board finds that the Petitioners are not responsible for the small size and unusual shape of this lot, including its angled lot lines, or for the constrained buildable area resulting from the applications of the setbacks set forth in the Zoning Ordinance to this small and unusually shaped property.

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 requested three (3) foot variance is the minimum necessary to overcome the practical difficulty that full compliance with the setbacks imposed by Zoning Ordinance would cause because of the constrained and shallow nature of the buildable envelope which results from the application of the setbacks to the

property, on account of its unusual shape, angled lot lines, and small size. The Board notes that the proposed encroachment for which this variance is requested does not extend beyond the footprint of the existing porch.

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 Board finds that the granting of this variance will continue the residential use of the home, consistent with the applicable master plan.

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.*

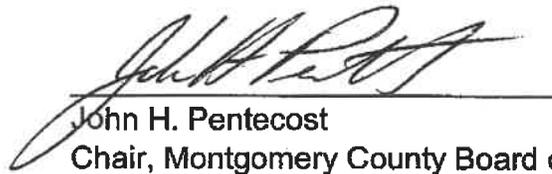
The Board finds that the grant of this variance will not increase the incursion of the footprint of the existing home into the rear setback and, for the reasons set forth in the Statement and recounted above, will be largely screened from the viewshed of neighboring properties. The Board notes, per the Statement, that the Petitioners have discussed their proposed construction with their neighbors and have their support, and further notes that the record contains no letters of opposition. See Exhibit 3. Thus the Board finds that granting this variance, to allow a second story addition over an existing porch, will not be adverse to the use and enjoyment of abutting or confronting properties.

Accordingly, the requested variance of three (3) feet from the rear lot line setback is **granted**, subject to the following conditions:

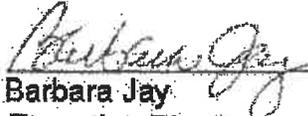
1. Petitioners shall be bound by the testimony and exhibits of record; and
2. Construction shall be in accordance with Exhibits 4 and 5(a)-(c).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, with Bruce Goldensohn, Vice Chair, Katherine Freeman, and Mary Gonzales 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.

  
John H. Pentecost  
Chair, Montgomery County Board of Appeals

Montgomery County, Maryland  
this 11th day of September, 2020.

  
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Barbara Jay  
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. 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 59-7.3.2.G.1 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.