

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
<http://www.montgomerycountymd.gov/boa/>

(240) 777-6600

**Case No. A-6692**

**PETITION OF SANTOSH NANDA AND ANITA VERMA**

OPINION OF THE BOARD  
(Hearing Date: April 21, 2021)  
(Effective Date of Opinion: April 28, 2021)

Case No. A-6692 is an application by Santosh Nanda and Anita Verma (the "Petitioners") for two variances needed for the proposed construction of a sunroom and deck. The proposed sunroom requires a variance of ten (10) feet as it is within ten (10) feet of the rear lot line. The required setback is twenty (20) feet, in accordance with Section 59-7.3.4 of the Zoning Ordinance. In addition, the proposed deck requires a variance of two (2) feet as it is within 9 feet of the rear lot line. The required setback is 11 feet, after application of the nine (9) foot projection exemption allowed by Section 59.4.1.7.B.5.a.i of the Zoning Ordinance.

Due to COVID-19, the Board of Appeals held a remote hearing on the application on April 21, 2021. All participation was done via Microsoft Teams. Petitioners Santosh Nanda and Anita Verma participated in support of the requested variances, along with Adam Ford of Maryland Sunrooms.

Decision of the Board:                      Variances **GRANTED**.

**EVIDENCE PRESENTED**

1.     The subject property is, Lot 34, Block A, Fairland Park Subdivision, located at 4319 Arbor Wood Court in Burtonsville, Maryland, 20866, in the PD-2 Zone. The property is a four-sided lot which, per SDAT, has an area of 6,987 square feet. The property is located along a curved portion of Arbor Wood Court, which causes the property's front lot line to have a slightly concave shape. The property's side lot lines are straight and similar to each other in length, but are set such that they diverge from one another, beginning at the front lot line, causing the rear of the subject property to be wider than the front. The

property's rear lot line is a straight line that meets the property's side lot lines to form acute angles at both rear corners. See Exhibits 4 and 9.

2. The Petitioners' variance application indicates that their property's narrowness, shallowness, and unusual shape cause them a practical difficulty in comporting with the setbacks established in the Zoning Ordinance. Their application indicates that their house was set further back from the road than neighboring properties. See Exhibit 1.

3. The Petitioners' Justification Statement ("Statement") indicates that the Petitioners purchased this property in 2019, that they are not responsible for their "irregularly shaped lot," and that the builder could have located the home closer to the street. The Statement further states that the variances requested are the minimum needed to overcome the practical difficulties posed by compliance with the Zoning Ordinance on account of the property's irregular shape. See Exhibit 3. The Site Plan submitted by the Petitioners shows that there is very little room available in the property's buildable envelope to expand this home to the rear. See Exhibit 4.

4. The Statement states that the area behind the property is a large common area. See Exhibit 3. The Site Plan and Zoning Vicinity Map confirm this, and show that the Petitioners' property backs to significant open space, such that there are no homes immediately behind the Petitioners' house. See Exhibits 4 and 9. As a result, the Statement concludes that the grant of the requested variances would not be adverse to the use of neighboring properties because "[t]he side setbacks will remain the same and there is no one behind the house." See Exhibit 3.

5. The Statement states that the proposed construction substantially conforms to the established historic and traditional development pattern of the neighborhood, and that the Bentley Park Homeowners Association has granted their approval for the proposed construction. See Exhibits 3 and 7.

6. At the hearing, Petitioner Nanda testified that he and his wife moved into their home at the end of 2019. He testified that most of their neighbors have a deck, screened porch, or breakfast room on the rear of their homes, with his wife estimating that more than three-quarters of the homes had these amenities. Petitioner Nanda testified that their home is located on a court, and that it backs to a wooded area and golf course. He testified that he and his wife have spoken to their neighbors about their proposed construction, and that their neighbors are very supportive.

7. Adam Ford testified that the neighbors' homes are located closer to the street than the Petitioners' home, and that the Petitioners' house could have been built closer to the road. He testified that there is not enough room on the sides of the Petitioners' home for expansion, and that there is only about four feet available for expansion toward the rear. Mr. Ford testified that in addition to the golf course, there is a creek behind the Petitioners' house, and that the chances that that area would ever be developed are "slim to none."

## 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, based on the Statement and Site Plan, that the subject property has a curved front lot line and divergent side lot lines, giving the property an irregular, somewhat trapezoidal shape, and significantly constraining the room available for expansion after application of the required setbacks. The Board finds that the property's unusual shape and the resultant constraints on its buildable area constitute an unusual condition peculiar to this property, in satisfaction of this element of the variance test.

*Section 59-7.3.2.E.2.a.v. - the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;*

The Board finds, based on the Statement and the testimony of the Petitioners, that the majority of homes in this neighborhood have decks, screened porches, and/or rear breakfast room additions, and thus finds that the proposed construction at the rear of the subject property substantially conforms to the established development pattern of this neighborhood, in satisfaction of this element of the variance test.

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

The Board finds that the Petitioners are not responsible for the shape of their property or its buildable envelope, in satisfaction of this element of the variance test.

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 area available for construction on the subject property, particularly to its rear, poses a practical difficulty for the Petitioners in that it severely limits expansion in that direction, necessary for construction that comports with the established pattern in the neighborhood, without variance relief. The Board further finds that the requested variances are the minimum needed to overcome the constraints imposed on the property's buildable envelope by the application of the required setbacks to the property, on account of its irregular shape, and thus to allow the Petitioners to proceed with their proposed construction. Accordingly, the Board finds that the requested variances are the minimum needed to overcome the practical difficulties that full compliance with the Zoning Ordinance would impose, in satisfaction of this element of the variance test.

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 allowing the Petitioners to proceed with the proposed construction will continue the residential use of this home, and thus can be granted without substantial impairment to the intent and integrity of the Fairland 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.*

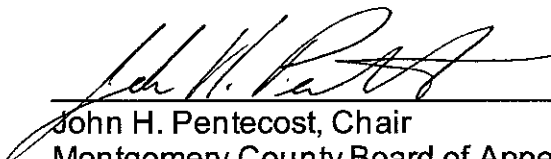
The Board finds, based on the Statement and the testimony of record, that the proposed construction will not be adverse to the use and enjoyment of abutting or confronting properties because the Petitioners' property backs to a wooded area and golf course, and not to other homes. The Board further finds that the Petitioners have discussed their proposed construction with their neighbors, and that none voiced any objections.

Accordingly, the requested variances from the rear lot line are **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.

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

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 28th day of April, 2021.

  
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.