

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**Case No. A-6791  
PETITION OF MICHAEL SINDALL**

**OPINION OF THE BOARD**  
(Public Hearing Date: February 15, 2023)  
(Effective Date of Opinion: February 24, 2023)

Case No. A-6791 is an application by Petitioner Michael Sindall for a variance needed for the proposed construction of an addition to his home. The proposed construction requires a variance of 11.30 feet as it is within 8.70 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 Montgomery County Zoning Ordinance.

The Board of Appeals held a hearing on the application on Wednesday, February 8, 2023. Petitioner Michael Sindall participated in support of the requested variance. His wife was also present.

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

**EVIDENCE PRESENTED**

1.     The subject property is Lot 36, Block 5B, PT LT35 PT LT 20 Block 5 Norwood Heights Subdivision, located at 4312 Stanford Street in Chevy Chase, Maryland, 20815, in the R-60 Zone. It is an irregular, eight-sided property, located on the south side of Stanford Street. The shape of the property is described by the Petitioner as an "inverted pipestem." The property contains a front portion (Lot 36 and Part of Lot 35) that is roughly rectangular in shape and is wider than it is deep, and a much narrower rear portion (Part of Lot 20) that extends south from the middle of the rear lot line for Lot 36. This rear extension is also generally rectangular in shape, and is deeper than it is wide. See Exhibits 1, 3, 4, and 8.

2.     The Petitioner's Statement of Justification ("Statement") states that the subject property contains a house that was built in 1929. The Statement states that the existing home is nonconforming because it sits 8.7 feet from the rear property line of Lot 36 and

Part of Lot 35. See Exhibit 3. Per SDAT, the Petitioner purchased the subject property in 2022.

3. The Statement states that the subject property is located in the Town of Chevy Chase, which has its own zoning setbacks and requirements. The Statement states that rear portion of the property (Part of Lot 20) is narrow, and that the Town has indicated that it will most likely not relax the setbacks applicable to that portion of the property because of the potential impact on neighboring properties, as follows:

The rear parcel (Lot 20/Blk 5) is narrow, has additional setback restrictions per the Town of Chevy Chase (TCC) and any connection to the existing house would be difficult and narrow itself. Per conversations with the TCC, they likely would NOT approve any waivers on the side yard setbacks in the rear lot since this would have a higher impact on the neighboring properties.

See Exhibit 3. The Statement states that the unusual shape and narrowness of the subject property is an extraordinary condition that is peculiar to this property. The Zoning Vicinity Map confirms that the shape of the subject property is unique. See Exhibit 8.

4. The Petitioner is seeking to construct an addition on the west (right) side of his home. The proposed addition will be located "within the roughly 10 ft of utilitarian space between the existing house and the existing garage and driveway," and will align with the rear of the existing house. The Statement indicates that the existing driveway and garage will remain. The Statement states that the "exterior style, massing, materials etc." of the proposed addition will "borrow from, compliment, and extend" the Tudor architecture of the existing home, and that proposed location for the addition is "the least intrusive and the least impactful location with regards to any of the neighboring properties," noting that "if one were to propose a location for an addition that would minimize or even eliminate the impact on the neighborhood and adjacent properties the proposed location would be the obvious choice." The Statement concludes that granting the requested variance to allow the proposed construction would not adversely impact adjacent properties. See Exhibit 3. The record contains the signatures of four neighboring households indicating that they do not object to the grant of the requested variance. See Exhibits 12(a)-(d).

5. The subject property contains a protected 42-inch Ginkgo tree that severely limits that area available for construction on the eastern portion of Lot 36 (i.e. the left side of the house). Because this tree is deemed protected by the Town of Chevy Chase, it is "not removable even with a permit." The Statement asserts that the tree and the area around it, in which construction is not permitted because it would compromise the tree, constitute an environmentally sensitive feature of the property for the purposes of satisfying Section 59.7.3.2.E.2.a.iii of the Zoning Ordinance. See Exhibits 3 and 7.

6. The Statement states that full compliance with the setbacks in the Zoning Ordinance would pose a practical difficulty for the Petitioner in that it would reduce the footprint of the proposed addition to such an extent as to make it unworkable. The Statement further states that the requested variance is the minimum needed to overcome this practical difficulty, and to allow the construction of a proposed addition flush with the rear of the existing nonconforming house. See Exhibit 3. Finally, the Statement states

that due to the peculiarities of the subject property, any addition to this home would likely require a variance, as follows:

Given the existing site conditions and restrictions any worthwhile side or rear addition would likely require a variance. This request is to MATCH the existing rear face of the house, not to go beyond it or exceed it in any way, and as such this is the minimum necessary to achieve the project goals while also the most logical and reasonable since aligning with the current footprint. Full compliance would eliminate roughly 1/3 of the project footprint and thus it's viability.

7. At the hearing, the Petitioner testified that his property has an unusual, upside-down "T" shape. He testified that he and his wife are seeking an addition to their house to better accommodate their growing family. The Petitioner testified that they have worked with the Town of Chevy Chase in an effort to maintain the existing tree cover, and that they have worked with their neighbors to make sure the proposed addition did not impinge on their neighbors' properties or privacy. He noted that the record contains documentation of this effort. See Exhibits 12(a)-(d).

In response to Board questions, the Petitioner confirmed that the proposed addition would be located between the existing house and the existing garage, noting that the garage will remain detached. He testified that they do not yet have approval for the proposed addition from the Town of Chevy Chase because the Town was waiting to see what the Board of Appeals did. Regarding the tree report at Exhibit 7, the Petitioner testified that there is a mature tree on the left side of their house, and that he understood the arborist to say that construction on that side of the house, except in the very small area marked on the Tree Protection Plan, would kill this tree. See Exhibit 7.

## **FINDINGS OF THE BOARD**

Based on the binding testimony and the evidence of record, the Board finds that the requested 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.ii. – the proposed development uses an existing legal nonconforming property or structure;*

The Board finds, based on the Statement, that the existing house, which was built in 1929 and is located 8.7 feet from the rear lot lines of Lot 36 and Part of Lot 35, does not meet the required rear setback, and as such is nonconforming. See Exhibit 3. Because the proposed addition uses and would be flush with this existing legal nonconforming structure, the Board finds that this element of the variance test is satisfied.

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 Petitioner purchased the subject property in 2022, and is not responsible for the nonconforming placement of the original house, 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 nonconforming placement of the existing house on the subject property, 8.7 feet from the rear lot line, prevents the Petitioner from being able to construct a usable addition flush with the rear face of his existing house, causing him a practical difficulty. See Exhibit 3. The Board further finds that the requested variance is the minimum necessary to overcome this practical difficulty and to allow the Petitioner to construct a meaningful addition to his home in a location that the Petitioner has demonstrated is the least impactful to his neighbors, and to his neighborhood (in terms of preserving tree cover). Accordingly, the Board finds that this element of the variance test is satisfied.

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;*

The Board finds that the granting of the requested variance will continue the residential use of the home, and thus can be granted without substantial impairment to the intent and integrity of the applicable Bethesda-Chevy Chase Master Plan (1990). Accordingly, the Board finds that this element of the variance test is satisfied.

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.*

Based on the Statement and the testimony of the Petitioner, the Board finds that granting the requested variances will not be adverse to the use and enjoyment of neighboring properties, in satisfaction of this element of the variance test. See Exhibit 3. The Board notes, in further support of this finding, that the addition is located so as to minimize its impact and intrusion on neighboring properties, and that the Petitioner has submitted signatures from four of his neighbors indicating that they do not object to the grant of the requested variance. See Exhibits 3 and 12(a)-(d).

Accordingly, the requested variance is **granted**, subject to the following conditions:

1. Petitioner shall be bound by the testimony and exhibits of record; and
2. Construction shall be in accordance with Exhibits 4(a) and 5(a)-(d) (interior layout excluded).

Based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice Chair, with Caryn Hines, Laura Seminario-Thomton, and Alan Sternstein 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 24th day of February, 2023.

  
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.