

**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-6833**

**PETITION OF JOHN BLOUNT AND ADRIENNE van den BEEMT**

OPINION OF THE BOARD  
(Hearing Held: October 18, 2023)  
(Effective Date of Opinion: November 1, 2023)

Case No. A-6833 is an application by John Blount and Adrienne van den Beemt (the "Petitioners") for four variances from the setback requirements of the 1928 Zoning Ordinance, needed in connection with the construction of an open porch and second story addition, as follows:

The proposed construction, an open porch, requires a variance of 6.96 feet as it is within four (4) feet of the **side street lot line**. The required setback is 10.96 feet min., in accordance with Section III "A" Residence Zone C.2. in the 1928 Zoning Ordinance.

The proposed construction, an open porch, requires a variance of 0.53 feet as it is within 6.47 feet of the **left side lot line**. The required setback is seven (7) feet min., in accordance with Section III "A" Residence Zone C.3. in the 1928 Zoning Ordinance.

The existing house with the proposed second floor addition requires a variance of 0.44 feet as it is within 6.56 feet of the **left side lot line**. The required setback is seven (7) feet min., in accordance with Section III "A" Residence Zone C.3. in the 1928 Zoning Ordinance.

The existing house with a proposed second floor addition requires a variance of 0.71 feet as it is within 10.25 feet of the **side street lot line** at the closest point along the 2<sup>nd</sup> Avenue ROW. The required setback is 10.96 feet min., in accordance with Section III "A" Residence Zone C.2. in the 1928 Zoning Ordinance.

The Board of Appeals held a hearing on the application on Wednesday, October 18, 2023. Petitioner John Blount testified at the hearing in support of the requested variances, assisted by Soo Lee-Cho, Esquire, and architect Brian McCarthy. Petitioner Adrienne van den Beemt was also present at the hearing, but did not testify.

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

## **EVIDENCE PRESENTED**

1.     The subject property is Block 12, Lot 11, Pinecrest Subdivision, located at 6518 Allegheny Avenue in Takoma Park, Maryland, 20912, in the R-60 Zone. It was platted in 1909, and was located in Prince George's County, Maryland, at that time. The subject property is rectangular in shape, and is described as a "long and narrow" corner lot. It has 41.96 feet of frontage along Allegheny Avenue, which borders the property to the northeast, and 149.8 feet of frontage along 2<sup>nd</sup> Avenue, which borders the property to the northwest. The subject property has an area of 6,286 square feet, and is improved with an existing house. See Exhibits 3, 4(a)-(b), and 8(a)-(b).

2.     The Petitioners' Statement of Justification ("Statement") states that the property contains an existing one-story house that has a basement and a wrap-around deck. The Statement states that the Petitioners are seeking to add a second story addition to their home, and to replace the existing deck with a wrap-around covered porch. They are also proposing to update the first floor and cellar bathrooms, and to build new interior staircases to the second floor and basement. See Exhibit 3. As shown on the Petitioners' Site Plan, the vast majority of the proposed second story will be located on top of the existing house, but there will be a small (48 square foot) two-story addition on the southwest side (rear) of the proposed house. See Exhibit 4(a).

3.     The Statement indicates that "the narrowness of the lot and the setback and angle of the existing, original house" result in the need for variances from the setback required along the left side lot line (southeastern property line) and from the side street setback along 2<sup>nd</sup> Avenue (northwestern property line). See Exhibit 3. The Statement explains that "the way that the existing house is angled on the lot means that the setbacks are not consistent along the sides of the existing first floor structure." The Statement then details the encroachments of the existing house and deck into the setback from the left side lot line, stating that "[t]he existing Left Side yard setbacks are 6.47 feet at the east corner of the existing deck/replacement porch (necessitating a variance of 0.53 feet from the required 7-foot minimum left side setback) and 6.56 feet to the east corner of the existing first floor and new second floor (necessitating a variance of 0.44 feet from the same 7-foot minimum left side setback)." The Statement recounts how the 10.96 foot required side street setback along 2<sup>nd</sup> Avenue was calculated, and states that the following variances are needed from that setback:

1. **Minimum Side Street Setback (for Proposed Open Porch)** – A variance of 6.96 feet from the strict application of Section III “A” Residence Zone (C)(2) requiring a Side Street setback of 10.96 feet from 2nd Avenue; and

4. **Minimum Side Street Setback (for Existing House and 2nd Floor Addition)** – A variance of 0.71 feet from the strict application of Section III “A” Residence Zone (C)(2) requiring a Side Street setback of 10.96 feet from 2nd Avenue.

The Statement states that at 41.96 feet wide, the subject property is “exceptionally narrow,” noting that the standard minimum lot width in the R-60 Zone is 60 feet. Thus the Statement concludes that the requested variances “cannot be avoided due to the narrowness of the lot and the setback and angle of the existing, original house.” See Exhibit 3.

4. The Statement states that “as a corner lot the Property must adhere to a Side Street setback requirement that inhibits its ability to substantially conform with the established development pattern and architectural character of the neighborhood, which includes wrap-around porches as a design element to a significant degree.” See Exhibit 3. The Petitioners have submitted photographs of other homes with porches in their neighborhood that they assert exemplifies this pattern. See Exhibit 11.

5. The Statement states that the existing house on the property is an existing legal, nonconforming structure. The Statement further states that the proposed construction “seeks to utilize/enhance” this structure, and that “[t]he existing legal nonconformity of the house [originated] prior to the Petitioners ownership of the Property, and pre-dates the current zoning regulations in the County.” See Exhibit 3.

6. The Statement states that the special circumstances and conditions necessitating the requested variances “are not the result of actions by the Petitioners,” and that the requested variances are “the minimum necessary to overcome the practical difficulties” caused by the property’s narrow width and by the nonconformity of the existing house.<sup>1</sup> See Exhibit 3.

7. The Statement states that the applicable Master Plan is the Takoma Park Master Plan (2000), and that the “construction of the proposed second-story addition and renovation of the existing structure will not impair the intent and integrity of the Plan but will enhance the mainly residential nature of this area.” See Exhibit 3.

8. Finally, the Statement states that granting the requested variances will not be adverse to the use and enjoyment of neighboring properties because “it mainly builds on

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<sup>1</sup> The Board finds, based on the 1909 subdivision plat in the record at Exhibit 8(b), that this property was originally located in Prince George’s County, Maryland. See Exhibit 8(b). Based on this, the Board concludes that the subject property is located in the part of Montgomery County that was annexed from Prince George’s County in 1997, and that the existing house on the subject property was therefore not subject to the Montgomery County Zoning Ordinance at the time of its construction. The Board notes that per SDAT, the existing house was constructed in 1962, and was purchased by the Petitioners in late 2021.

top of the existing footprint of the property and will remain consistent with the overall character, scale/massing and design of the neighborhood.” The Statement notes that the Petitioners’ abutting neighbors to the left are supportive of the project. See Exhibit 3. The record contains letters of support from those neighbors, from the Petitioners’ abutting neighbors to the rear, and from one other neighbor. See Exhibits 7(a)-(c).

9. At the hearing, Ms. Lee-Cho oriented the Board to the property and the project. She stated that the subject property was platted in 1909, and that with a width of 41.96 feet, it is exceptionally narrow for the R-60 Zone. Ms. Lee-Cho explained that the 1928 Zoning Ordinance allows a minimum 24-foot side buildable envelope, and that as a result, DPS has determined that the side street setback for this property is 10.96 feet. She stated that DPS further determined that both the proposed second story addition and the proposed open porch need to comply with this setback.

Ms. Lee-Cho stated that the property contains an existing one-story house that is sited in a slightly “skewed” fashion on the lot. She stated that the Petitioners are proposing to add a second story addition to this house that will basically line up with the existing first story, and that they are proposing to replace the existing wrap-around deck with a wrap-around covered porch.

10. Mr. Blount testified that he has lived down the street at 6513 Allegheny Avenue since 1988. He testified that he and Ms. van den Beemt have raised their family in that house, and that while they love the neighborhood, the house in which they currently live is quite small. He testified that when the subject property came up for sale, they purchased it. Mr. Blount testified that they hope to convert what is currently a one-story, two-bedroom home on that property into a two-story, three-bedroom home. Mr. Blount testified that there is no other location on the subject property to accommodate the proposed addition. He testified that the area behind the house contains an existing driveway and a storm drain easement that runs diagonally across the property. In addition, Mr. Blount testified that this area is prone to flooding. He testified that on-street parking in the neighborhood is extremely challenging because the street is unusually narrow (19 feet) and parking is only allowed on one side.

Mr. Blount testified that he has reached out to several of his neighbors, including his abutting neighbors to the left and to the rear, and that they support the grant of the requested variances. He stated that some of his neighbors sent letters of support to the Board. See Exhibits 7(a)-(c). In response to a Board question asking how his house, as modified, would compare in terms of size with neighboring properties, Mr. Blount testified that there is a wide range of house sizes in the neighborhood, and that even with the proposed addition, his house would still be smaller than several houses on the block.

11. Mr. McCarthy testified that he is the architect for the Petitioners’ project, and that he has previously qualified as an expert before the Board. He testified that he is familiar with the variance test set forth in Section 59.7.3.2.E of the Zoning Ordinance. In response to a question asking which of the unique conditions set forth in Section 59.7.3.2.E.2.a of the Zoning Ordinance are applicable to the subject property, Mr. McCarthy testified that

the subject property is exceptionally narrow, that it is a legal, non-conforming property, and that the proposed construction is consistent with the established character of the neighborhood. He testified that he lives in Takoma Park and does most of his work there. Mr. McCarthy testified that he is familiar with the housing stock in Takoma Park, and that this house with the proposed addition would fit somewhere in the middle of the bungalows and Victorians that characterize Takoma Park. He testified, among other things, that the proposed overhanging eaves and open porch were essential characteristics of area homes. Mr. McCarthy testified that the house at 6518 Westmoreland Avenue is most similar in style to the Petitioners' house with the proposed addition. See Exhibit 12. He testified that the house at 6518 Westmoreland Avenue is located one house away from the subject property on the same side of 2<sup>nd</sup> Avenue. Mr. McCarthy noted that the wrap-around porch on that house is shallower on the 2<sup>nd</sup> Avenue side than it is on the front, similar to the porch proposed for the Petitioners' house. He testified that other houses in the neighborhood have similar character. See Exhibit 11.

Mr. McCarthy testified that the proposed side porch along 2<sup>nd</sup> Avenue requires the most significant variance. He testified that the proposed porch is a refinement of the existing deck, and that it helps to soften the appearance of the second story. Mr. McCarthy testified that the 6.96 foot variance being requested for the side porch includes the porch and a foot of roof overhang; he indicated that the County's Department of Permitting Services ("DPS") determined that a variance from the side street setback is needed for the porch and roof overhang, and that these improvements are not entitled to a projection exemption such as is typically afforded to open porches. Mr. McCarthy testified that the other three variances are minor. He testified that the proposed second story addition will be aligned with the existing first story, and that the total encroachment of the addition on both sides of the house is about twenty (20) square feet (approximately five (5) square feet on the left side and fifteen (15) square feet on the right side). See Exhibit 14. Mr. McCarthy testified that the proposed front porch is slightly wider than the existing deck. He testified that DPS wanted the steps and roof overhang included in the allowable projection for the front porch.

In response to a Board question asking if the proposed second story addition would increase the footprint of the existing house, Mr. McCarthy testified that there were two modest increases to the home's existing footprint. He testified that there would be an overhang over the existing rear areaway. In addition, he testified that the front of the second story addition would extend about a foot closer to Allegheny Avenue than the existing first story, explaining that the first story was set back 26 feet from that property line and that the second story would be set back 25 feet. Mr. McCarthy testified that this misalignment would be concealed by the proposed front porch.

Mr. McCarthy testified that the special circumstances pertaining to this property were not due to any actions of the Petitioners. He testified that the requested variances could be granted without substantial impairment to the intent and integrity of the applicable master plan, and that the granting the requested variances would not be adverse to the use and enjoyment of neighboring properties.

**FINDINGS OF THE BOARD**

Based on the binding testimony and evidence of record, the Board finds that the requested variances can be granted. The requested variances comply 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, Site Plan, and testimony of Mr. McCarthy, that the subject property, with a width of 41.96 feet, is exceptionally narrow for the R-60 Zone, which has a minimum 60-foot lot width at the front building line. See Exhibits 3 and 4(a)-(b). The Board finds that the exceptional narrowness of the subject property constitutes an extraordinary condition peculiar to this property, in satisfaction of this element of the variance test.

*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 1909 Subdivision Plat, that the subject property was originally located in Prince George's County. The Board notes that the annexation of the portion of Takoma Park in which this property is located into Montgomery County occurred in 1997, after construction of the existing house, which SDAT indicates was built in 1962. The Board further finds that the existing house does not comply with the seven (7) foot side setback or the 10.96 foot side street setback currently required by the Montgomery County Zoning Ordinance, and that as a result, the existing structure is nonconforming. Finally, the Board finds, based on the plans of record and the testimony of Mr. McCarthy, that the proposed second story and porch addition would use this existing structure. See Exhibits 3, 4(a)-(b), 5(a)-(b), and 8(b), and SDAT Printout. Accordingly, 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 subject property was platted in 1909, and that the house on the subject property was built in 1962. Thus the Board finds that the Petitioners, who purchased this property in 2021, took no actions to create the narrow shape of the property or the nonconforming, angled location of the existing house on that property, 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, based on the Statement, that the requested variances are the minimum necessary to allow the proposed construction to proceed. See Exhibit 3. The Board finds that the requested variances are minimal in that they basically allow the construction of a second-story addition over an existing home, and a wrap-around porch over an existing deck. See Exhibit 4(a). The Board further finds, per the testimony of Mr. McCarthy, that the total encroachment of the existing home is less than twenty (20) square feet on two sides. See Exhibit 14. Thus the Board concludes that compliance with the required setbacks, which are violated by the existing house, would pose a practical difficulty for the Petitioners, and that the grant of the requested variances is the minimum necessary to overcome the 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 the proposed construction will continue the residential use of this property, consistent with the recommendations of the Takoma Park Master Plan, which seeks to “[p]reserve existing residential character, encourage neighborhood reinvestment, and enhance the quality of life throughout Takoma Park.” Thus 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.*

The Board finds, per the Statement, Site Plan, photographs, and testimony of Mr. McCarthy, that the proposed second story generally maintains the footprint of the existing home and will not encroach any closer towards the property’s left side property line or side street property line than the existing house does, and that covered porches are a common feature in this area. See Exhibits 3, 4(a), and 11. The Board further finds, based on the testimony of Mr. Blount, that the Petitioners’ left side and rear neighbors are aware of the proposed construction and do not object. See Exhibits 7(a)-(c). Finally, the Board finds, based on the testimony of Mr. Blount and Mr. McCarthy, and based on the plans for the subject property and the photographs of other houses, that the proposed addition would not be out of place in the neighborhood. See Exhibits 5(b), 11, 12, and 13(a)-(b). On the basis of the foregoing, the Board finds that the grant of the requested variances will not be adverse to the use and enjoyment of abutting or confronting properties, in satisfaction of this element of the variance test.

Accordingly, the requested variances, needed to allow the proposed second story addition and open porch, 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(a), 5(b), and 13(a)-(b).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice Chair, with Caryn Hines, Laura Seminario-Thornton, 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.

  
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John H. Pentecost  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 1st day of November, 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.