

**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-6844  
PETITION OF TARIK YOUSIF AND CAROLYN ENGEL**

**OPINION OF THE BOARD**  
(Opinion Adopted January 10, 2024)  
(Effective Date of Opinion: January 17, 2024)

Case No. A-6844 is an application for a variance needed for the construction of a room addition. The proposed construction requires a variance of three (3) feet as it is within twenty-two (22) feet of the front lot line along Springvale Road. The required setback is twenty-five (25) feet, in accordance with Section 59.4.4.9.B.2 of the Zoning Ordinance.

The Board of Appeals held a hearing on the application on January 10, 2024. Petitioner Tarik Yousif participated in the hearing in support of the requested variance.

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

**EVIDENCE PRESENTED**

1.     The subject property is Lot 48, Evanswood 3128/257 5823/680 Subdivision, located at 622 Ellsworth Drive in Silver Spring, Maryland, 20910, in the R-60 Zone. It is an unusually shaped, four-sided corner lot, located on the east side of Ellsworth Drive and the north side of Springvale Road. The property's front lot lines along these two roads meet at an obtuse angle; the property's northern (left side) and eastern (rear) lot lines meet at an acute angle. As a result of these angles, the property's front lot line along Ellsworth Drive and its rear lot line are not parallel to one another, but rather converge from north to south, causing the property to narrow from north to south. In addition, the property's front lot line along Springvale Road and its left side lot line diverge from west to east, causing the width of the property to increase from its front along Ellsworth Drive towards its rear (i.e. west to east). The property has an area of 7,327 square feet. It contains a house that was built in 1936, and it was purchased by the Petitioners in 2020. See Exhibits 3, 4, and 8, and SDAT Printout.

2. The Petitioners' Application states that the Petitioners are seeking to convert an existing screened porch into a "four-seasons sunroom," noting that "[t]he existing screened porch is in need of repair." The Application states that remote work and a growing family have put strains on their ability to live in their house, and that "converting [the existing screened porch] into a four-seasons sunroom will expand the use of our house and property to its fullest extent." The Application cites their property's narrowness and shape as conditions that make it unique. It states that the property's lot line along Springvale Road is set at an angle relative to the side of their house, and that this "represents a constraint to the reasonable use of the existing footprint for [the Petitioners'] proposed improvements." The Application states that "[a]ll neighbors on Ellsworth with the same house design/shape/size have been able to successfully convert their screened porches into four-seasons sunrooms, with [the Petitioners] being the exception because of corner lot setback limits." See Exhibit 1.

3. The Petitioners' Statement of Justification ("Statement") describes the shape of the subject property as "irregular," "odd," "unusual," and "peculiar." It states the unusual shape of their property is the "foremost factor" in their being unable to convert their existing screened porch into a sunroom without variance relief. The Statement states that the proposed sunroom will not expand the footprint of the existing house and will comply with the applicable height limitations. It states that the Petitioners "are not responsible for the constraints imposed on the development of this property by its size and shape." See Exhibit 3.

4. The Statement states that the Petitioners have contacted their neighbors, who support the proposed conversion of their porch to a sunroom, as follows:

We the Petitioners have contacted our neighbors who support our proposal to convert the existing porch to a four-seasons sunroom.

We believe that the effect for our neighbors David DeGrazia & Kathleen Smith, at 620 Ellsworth Dr will be minimal, since their house is on the opposite side of our house from the proposed conversion. Additionally, like most houses on our block of the exact same size and design, they have had their porch converted to a sunroom previously as well and did not have any limitations because of their lot shape and associated setbacks.

We believe that the effect for our neighbors Richard Riley and Margaret Foster Riley at 8617 Springvale Rd, which is abutting our back/side yard will also be minimal as their view is obscured by the trees and bushes between our houses along with our garage.

Finally, we believe the conversion of the porch to sunroom will have no impact on neighbors confronting our house in Chelsea Heights across Springvale Rd. The conversion will improve the current state of the house, and we are attuned to our neighbors' aesthetic sensibilities within their viewscape, and believe that the

design is visually appealing and architecturally compatible with the rest of the house, and will maintain 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 convert the existing porch to a four-seasons sunroom on the existing footprint.

See Exhibit 3. The Petitioners submitted letters of support from their neighbors at 620 Ellsworth Drive and 8617 Springvale Road with their request. See Exhibits 7(a)-(b).

5. At the hearing, Petitioner Yousif testified that he owns the subject property with his wife. He testified that their property is a corner lot with an awkward shape. Mr. Yousif testified that he did not build the screened porch that he and his wife are now seeking to convert to a sunroom. He testified that he believes their existing screened porch was built in 1936 when the house was built. Mr. Yousif testified that the southwest corner of the porch encroaches about three feet into the required 25-foot setback. He testified that there are six other homes with porches on his block that are identical to his, but that none of the others are on a corner property. Mr. Yousif testified that the porches on five of these houses have been converted to sunrooms. In response to a Board question asking why his porch is not considered a legal nonconforming structure, Mr. Yousif testified that while it appears that his porch was built at the same time as his house because all of the similar houses on his block have the same footprint and the same porch, there is no concrete evidence to show when the porch was built.

Mr. Yousif testified that the proposed construction would not change the footprint of the existing porch. He testified that the existing screened porch is in need of repair, as is shown in the photographs he submitted. See Exhibits 5(g)-(i). Mr. Yousif testified that he and his wife have spoken to their neighbors, and that they do not object to the proposed conversion of their screened porch to a sunroom. See Exhibits 7(a)-(b).

## **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 an unusual shape, with no two sides being parallel. The Board further finds that this circumstance constitutes an extraordinary condition peculiar to this property that uniquely constrains its buildable envelope, as evidenced by the fact that the front setback along Springvale Road goes through the Petitioners' existing screened porch, in satisfaction of this element of the variance test. 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 Board finds that the Petitioners purchased this property in 2020, long after it was developed and built. Thus the Board finds that the unusual shape of the property is not the result of actions by the Petitioners, 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 due to the property's unusual shape, full compliance with the setbacks imposed by Zoning Ordinance would cause the Petitioners a practical difficulty because adherence to the required setbacks would foreclose the ability of the Petitioners to replace their existing screened porch, which violates the front setback along Springvale Road, with a four-seasons sunroom. See Exhibits 3 and 4. The Board further finds, based on the Application and the Statement, and on the testimony of the Mr. Yousif, that most of the houses in the immediate neighborhood that are of the same style as the Petitioners' house have converted their porches to sunrooms. In addition, the Board finds that the Petitioners' proposed sunroom would have the same footprint as their existing screened porch. See Exhibits 1 and 3. In light of the foregoing, the Board finds that the requested variance is the minimum needed to allow the Petitioners to replace their porch with a sunroom, and thus to overcome the practical difficulty posed by full compliance with the Zoning Ordinance on account of their property's unusual shape, 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 requested variance, needed to allow the Petitioners to construct a sunroom in place of their existing screened porch, can be granted without substantial impairment to the intent and integrity of the applicable North and West Silver Spring Master Plan (2000), which seeks to "preserve the existing residential character and to reinforce the many desirable features of the North and West Silver Spring neighborhoods." 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.*

The Board finds, based on the Statement, the letters of support, and the testimony of Mr. Yousif, that the Petitioners' neighbors have no objection to the proposed sunroom, and that for the reasons recounted in paragraph 4 under "Evidence Presented," the proposed sunroom will not be adverse to the use and enjoyment of abutting or confronting properties. The Board further notes that the property has been properly posted, and that the record contains no opposition to the requested variance. Accordingly, the Board finds that granting this variance, to allow construction of the proposed sunroom, 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 variance of three (3) feet from the front lot line along Springvale Road 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)-(f).

Therefore, based upon the foregoing, on a motion by John H. Pentecost, Chair, seconded by Alan Sternstein, with Richard Melnick, Vice Chair, Caryn Hines, and Laura Seminario-Thornton 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 17th day of January, 2024.

  
\_\_\_\_\_  
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.