

**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-6845

PETITION OF LAKSHMI R. KARNATAKAPU

OPINION OF THE BOARD
(Public Hearing Date: January 10, 2024)
(Effective Date of Opinion: January 19, 2024)

Case No. A-6845 is an application by Petitioner Lakshmi R. Karnatakapu for a variance needed for the proposed construction of a shed. The proposed construction requires a variance of 10.50 feet as it is within 1.50 feet of the side lot line. The required setback is twelve (12) feet, in accordance with Section 59.4.4.7.B.2 of the Zoning Ordinance.

The Board of Appeals held a hearing on the application on January 10, 2024. Petitioner Lakshmi R. Karnatakapu appeared in support of the application.

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

EVIDENCE PRESENTED

1. The subject property is Lot 30, Block B, Brownstone Estates Subdivision, located at 17200 Snow Goose Court in Germantown, Maryland, 20874, in the R-200 Zone. It is a corner lot located on the south side of Snow Goose Court and the west side of Monarch Vista Drive. The property's frontage along Snow Goose Court is longer than its frontage along Monarch Vista Drive, and is slightly concave, following the curvature of that street. The property's southern border is straight, and its western border is in two segments, and thus slightly bent. The entire west side of the subject property is encumbered with a storm drain easement that is shown on the original plat and on the Site Plans. The property has an area of 8,767 square feet, and was recorded in 1995. Per SDAT, it contains a house that was constructed in 1997, and was purchased by the Petitioner in 2020. See Exhibits 3, 4(a)-(b), and 8(a)-(b), and SDAT printout.

2. The Petitioner is seeking to construct an 8' x 12' shed on his property. The Petitioner's variance Application cites the property's shape and narrowness as reasons why the strict application of the Zoning Ordinance would cause him a practical difficulty. See Exhibit 1. The Petitioner's Statement of Justification ("Statement") states that the "available space" in his back yard is "insufficient to accommodate [a shed] without encroaching upon the patio," and that locating the proposed shed in that area "would lead to congestion and limit [his] ability to enjoy [his] outdoor living area fully." See Exhibit 3.

3. The Statement states that the Petitioner is seeking to construct his shed in the location proposed because of the presence of a storm drain easement "on the total west part of [his] house." The Statement indicates that the County's Department of Permitting Services ("DPS") had suggested two locations for the proposed shed, one of which is in front of his house and therefore not allowed by his Homeowners' Association, and the other of which "is located back of [the Petitioner's] house touching the house." See Exhibit 4(a). The Statement indicates, with respect to the latter location, that the Petitioner has a patio and "big windows to allow sunshine into the house" in that location. See Exhibit 3. The photographs submitted by the Petitioner show this patio and the windows that would be blocked if he were to place the shed in the second location suggested by DPS. See Exhibits 5(b)-(c).

4. The Statement states that construction of the proposed shed will not be adverse to the use and enjoyment of neighboring properties because the Petitioner's yard is fenced. See Exhibit 3. The photographs submitted by the Petitioner confirm that there is a privacy fence around his back yard. See Exhibits 5(b)-(c).

5. The Statement states that the Petitioner has received approval for the proposed location of the shed from his Homeowners' Association. See Exhibit 3. The Petitioner includes this approval with his submission. See Exhibit 7.

6. At the hearing, the Petitioner testified that he owns the subject property. He testified that he is seeking to locate a shed on his property. The Petitioner testified that the proposed location for the shed was chosen because of a storm drain easement that extends across his back yard. He testified that DPS had suggested two other locations, which are shown in yellow on Exhibit 4(a), but that the first, which was in front of his house, would not be approved by his Homeowners' Association, and that the second, which was to the rear of his house, would be very close to the house and would block his windows. The Petitioner testified that this second location would also block a portion of his existing patio. He testified that this patio was built by the previous owner after that owner removed the deck shown on Exhibit 4(b).

In response to a Board question, the Petitioner testified that the storm drain easement contains an underground pipe. In addition, he testified that the part of his lot where this easement is located is "very slope-y." In response to a question asking why he could not build on the easement portion of his property if the pipe was underground, the Petitioner stated that his Broker told him when he purchased the house that he was

not allowed to build in the easement area.¹ Finally, the Petitioner testified in response to a Board question that his Homeowners' Association has approved his request.

FINDINGS OF THE BOARD

Based on the binding testimony and 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, Site Plan, and the testimony of the Petitioner, that the Petitioner's rear yard is encumbered with a large storm drain easement which significantly constrains the area available behind the rear building line of his house for the construction of the proposed shed. The Board further finds, based on the testimony of the Petitioner, that even if the Petitioner were allowed to build in the easement area, which he has testified he cannot, that area of his property is significantly sloped. Finally, the Board finds that the portion of the Petitioner's rear yard that is outside of the easement area contains a patio that was constructed by a previous owner. See Exhibits 3, 4(a), and 5(b)-(c). The Board finds that these circumstances constitute an extraordinary condition peculiar to this property, 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 subject property and storm drain easement were recorded in 1995, and that the Petitioner's house was built in 1997. See Exhibit 8(b) and SDAT Printout. The Board further finds, based on the SDAT Printout, that the Petitioner purchased the property in 2020, and is therefore not responsible for the presence of this easement, or for the slope of the property in that area. Finally, the Board finds, based on the testimony of the Petitioner, that the patio behind his house was built by a previous owner. Accordingly, the Board finds that the special circumstances or conditions peculiar to this property are not the result of actions by the Petitioner, 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;*

¹ The Board also observes that DPS did not suggest that the shed be placed in the area of the property covered by the storm drain easement, further corroborating Petitioner's testimony that he cannot build in this area. See Exhibit 4(a).

The Board finds, based on the Statement, Site Plan, and the testimony of the Petitioner, that locating the proposed shed in accordance with the requirements of the Zoning Ordinance would cause the Petitioner a practical difficulty because of the constraints placed on the area available behind the rear building line of the Petitioner's house by the storm drain easement. The Board further finds that the requested variance is the minimum needed to allow the Petitioner to locate the proposed shed in such a way that it is behind the rear building line but outside of the area occupied by this easement, and that it does not block the windows on the back of his house or compromise his patio. Thus the Board finds that the requested variance is the minimum necessary to overcome the practical difficulties posed by full compliance with the Zoning Ordinance, 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 construction of the proposed shed will continue the residential use of the home, and thus can be granted without substantial impairment to the intent and integrity of the applicable Germantown Master Plan, in satisfaction of this element of the variance test.

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.*

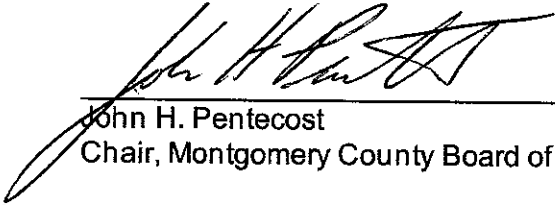
The Board finds, based on the Statement and the approval letter from the Petitioner's Homeowners' Association, and based on his testimony, that the Petitioner's Homeowners' Association has approved the proposed placement of the shed. See Exhibits 3 and 7. The Board further finds, based on the Statement and the photographs submitted by the Petitioner, that the view of the proposed shed will be obscured by an existing privacy fence. See Exhibits 3 and 5(b)-(c). Finally, the Board notes that despite being properly Noticed and posted, the record contains no opposition to the grant of the requested variances, and no one appeared at the hearing in opposition. In light of the foregoing, 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.

Accordingly, the requested variances, needed for the construction of the proposed shed, are **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).

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.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 19th 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 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.