

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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**Case No. A-6927
PETITION OF PATRICK E. LEDGER**

OPINION OF THE BOARD
(Hearing Held: September 10, 2025)
(Effective Date of Opinion: September 17, 2025)

Case No. A-6927 is an application by Petitioner Patrick E. Ledger for two variances needed in connection with the proposed construction of a shed. The proposed construction requires a variance of eight (8) feet as it is within fifty-two (52) feet of the front lot line. The required setback is sixty (60) feet, in accordance with Section 59.4.4.8.B.2 of the Zoning Ordinance. In addition, the proposed construction requires a variance because it will be located on the side of the principal building. The proposed shed is required to be located behind the rear building line of the principal building, in accordance with Section 59.4.4.8.B.2 of the Zoning Ordinance.

The Board of Appeals held a hearing on the application on Wednesday, September 10, 2025. Petitioner Patrick E. Ledger appeared in support of the requested variances. Andrea Krupinski, whose property abuts the subject property to the rear, also appeared.

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

EVIDENCE PRESENTED

1. The subject property is Lot 29, Block 11, Rock Creek Manor Subdivision, located at 5207 Russett Road in Rockville, Maryland, 20853, in the R-90 Zone. The subject property is an interior lot that is located on the east side of Russett Road. It is rectangular in shape, with a width of 80 feet and a depth of 120 feet, giving it a total area of 9,600 square feet. The property was recorded in 1964. The property is improved with a house that was built in 1966. It was purchased by the Petitioner in 1997. See Exhibits 1, 3(a), (b), and (d), and 4.

2. The Petitioner's variance Application cites the property's topography as a condition that makes the property unique for the purposes of granting a variance. The Application states that the subject property "sits on a steep hill," and that "there is no place on the rear of the property to put the new shed without an additional concrete pad to level the shed." The Application further states that there is also "some greenery and a tree that [the Petitioner] would not want to remove in order to place the shed in the rear of the property." The Application states that these conditions would cause the Petitioner a practical difficulty if the requested variances were not granted because "[t]here would be additional land disturbance and more concrete added to the lot." See Exhibit 1.

3. The Petitioner's Statement of Justification ("Statement") states that he is seeking variance relief so that he can construct a replacement shed on his property. The Statement states that due to the topography of his lot, the Petitioner is seeking to locate the shed on the side of his house. See Exhibit 3.

4. The Statement states that when the Petitioner purchased the property, there was an existing 7' x 7' shed on the property behind the house, as shown on Exhibit 3(d). The Statement states that in 2005, that shed was moved to the pad location on the side of the house to avoid conflicts with construction on the rear of the house. It states that the new location for the shed was chosen "because of the extremely steep slope of the backyard and the fact the side area was relatively flat." The Statement states that Inspectors who inspected the construction on the rear of the house saw that the shed had been moved to the side of the house but did not advise that the new location violated the Zoning Ordinance. The Statement states that after the original shed rotted and became unsafe, it was removed by the Petitioner. The Statement states that the Petitioner has now purchased a replacement shed, and is seeking to locate his new shed on the existing 9' x 7' concrete pad that had supported the original shed for over twenty years. See Exhibits 3 and 3(e)-(f).

5. The Statement states that the property's topography makes it unique for the purpose of granting a variance. The Statement states that the property "is a 9600 square foot lot with an extremely steep slope from the front of the lot to the back," noting that "[t]here is approximately a 20' to 30' rise in elevation from the front of the property on Russett Road and the back property line." See Exhibit 3. The Statement indicates that the Petitioner has included a topographic map and photographs showing this slope with his submission. See Exhibits 3(i)-(k). The Statement reiterates that there is no room behind the house to locate the proposed shed without additional land disturbance and concrete. See Exhibit 3.

6. The Statement states that the requested variances are the minimum needed to allow the Petitioner to locate the new shed on the existing concrete pad. It notes that the color of the replacement shed matches the color of the siding on the Petitioner's house, and that the roofing on the shed matches the home's roofing. See Exhibit 3.

7. The Statement states that granting the requested variances will not be adverse to the use and enjoyment of abutting and confronting properties, noting that "[t]here are

numerous properties that have their shed located on the side of their residence due to the topology of the Rock Creek Manor area.” See Exhibit 3.

8. Finally, the Statement states that locating the shed on the side of the house would make it easier for the Petitioner to access the shed because of mobility issues. See Exhibit 3.

9. At the hearing, the Petitioner testified that his property has unique topography, and that there is a 20 to 25 foot increase in elevation between the right of way at the front of his property and his rear property line. He testified that the property contains a house that was built in the 1960's, and that he purchased it in 1997. The Petitioner testified that there was a shed behind his house when he purchased the property, and that approximately 20 years ago, a contractor doing work on the rear of his home had moved the shed to the side of his house. The Petitioner testified that the contractor installed a concrete pad on the side of his home to support the shed. He testified that unbeknownst to him, the work relating to the relocation of the shed was done without a permit. The Petitioner testified that the County came to the property to inspect and approve the construction that had been done on the rear of the house, but did not mention that the shed could not be located on the side of the house.

The Petitioner testified that the original shed eventually started breaking down and became a safety hazard. He testified that he removed the original shed and purchased a new shed to install on the existing concrete pad. The Petitioner testified that he was unaware that the location of the original shed violated the Zoning Ordinance until he went to the County to get a permit for the replacement shed. He testified that the slope of his backyard is steep, as shown on the photographs and topographic map, and that there is nowhere else on his property to put the shed.

The Petitioner testified that he worked to enhance the aesthetics of the new shed by choosing a color and shingles that match his house. He testified that an existing fence would block the view of all but the top of the shed from the road.

In response to Board questions, the Petitioner testified that the original shed was 7'x7', and that the new shed is 8'x7'. He testified that the existing 9'x7' concrete slab can accommodate the new shed without any increase to its size. In response to a Board question asking if there are other sheds located forward of the rear building line in his neighborhood, the Petitioner testified that there are, and that he had counted at least a half dozen properties in the Aspen Hill area with sheds located on the side of the house, at about the same distance from the road as he is proposing.

The Petitioner testified that he had spoken with his neighbors on both sides about the proposed replacement shed, and that neither seemed to have a problem with the proposed construction. He stated that he had not spoken with his neighbors to the rear and acknowledged that this was an oversight on his part. The Petitioner testified that the proposed shed would not have electricity or plumbing.

10. Ms. Krupinski testified that she owns one of the two properties that abut the Petitioner's rear lot line. She testified that she had come to the hearing because she did not know any details about the Petitioner's proposed shed, and she was concerned that it might block the view from her kitchen towards Russett Road. She testified that she remembered the Petitioner's old shed, and that it did not block her view. Ms. Krupinski testified that she did not know that the Petitioner had an existing concrete slab, and that she had no problem with the proposed replacement shed being located on that slab.

FINDINGS OF THE BOARD

Based on the binding testimony and the evidence of record, the Board finds that the requested variances can be granted. The variances comply with the applicable standards and requirements set forth in Section 59.7.3.2.E.2, 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 Application and Statement, including the topographic map and photographs, and on the testimony of the Petitioner, that the area behind the rear building line of the existing house is encumbered with a steep slope that precludes construction in that area without significant site work to level the terrain and the installation of additional concrete to serve as a base for the proposed shed. See Exhibits 1, 3, and 3(i)-(k). The Board finds that this constitutes an extraordinary condition that is peculiar to this property, in satisfaction of this element of the variance test.

Section 59.7.3.2.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 Petitioner, that "[t]here are numerous properties that have their shed located on the side of their residence due to the topology of the Rock Creek Manor area," and that the Petitioner's proposed shed would substantially conform with this pattern. See Exhibit 3. 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, based on the Application and the SDAT Printout, that the subject property was recorded in 1964, that the Petitioner's house was built in 1966, and that the Petitioner purchased the subject property in 1997. See Exhibits 1 and 3(b). Thus the Board finds that the Petitioner is not responsible for the original development of his property or for its steep slope. The Board further finds that there is nothing in the record to suggest that the Petitioner is responsible for the pattern of sheds being located on the side of homes in this neighborhood. Accordingly, the Board finds that the special

circumstances or conditions applicable 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;*

The Board finds, based on the Application, Statement, and the testimony of record, that because the subject property "sits on a steep hill," there is "no place on the rear of the property" to locate the proposed shed without significant site work to create a level area for the shed and without the installation of an additional concrete pad, causing the Petitioner a practical difficulty. See Exhibits 1 and 3. The Board further finds that the requested variances, which would allow placement of the proposed shed on the side of the Petitioner's house, in an area that not only comports with the neighborhood pattern, but that is already "relatively flat" and that includes the concrete pad that supported the Petitioner's original shed for the past 20 years, is the minimum necessary to overcome this practical difficulty. See Exhibits 1, 3, and 3(e)-(f). In light of the foregoing, 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 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 Aspen Hill Master Plan (1994), which seeks, among other things, to "protect and reinforce the integrity of existing residential neighborhoods," 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, in accordance with the Statement and testimony of record, that granting a variance to allow the proposed shed will not be adverse to the use and enjoyment of abutting or confronting properties, in satisfaction of this element of the variance test. In support of this finding, the Board finds that the Petitioner has had a shed in this location for the past 20 years, and that the coloring and roofing of the proposed replacement shed will match that of the Petitioner's house. See Exhibit 3. The Board further finds, based on the Site Plan showing the proposed location of the shed, the photographs in the record, and the testimony of the Petitioner, that the proposed location for the shed is behind an existing privacy fence that will help to obscure the view of the shed. See Exhibits 3(f) and (j). In addition, the Board finds that the Petitioner has testified that his neighbors on both sides do not object to the proposed shed, and that one of his neighbors to the rear has similarly testified that she has no objection. Finally, the Board notes that the property was properly posted, that the record contains no opposition to the grant of the requested variances, and that no one at the hearing expressed opposition to the proposed shed location.

Accordingly, the requested variances needed to allow the proposed construction of a shed are **granted**, subject to the following conditions:

1. The Petitioner shall be bound by the testimony and exhibits of record.
2. Construction shall be in accordance with Exhibits 3(f)-(h).

Therefore, based upon the foregoing, on a motion by Caryn L. Hines, Chair, seconded by Alan Sternstein, with Richard Melnick, Vice Chair, in agreement, and with Donald Silverstein necessarily absent, 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.


Caryn L. Hines
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 17th day of September, 2025.


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.