

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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**Case No. A-6949
PETITION OF PARAS SHAH**

OPINION OF THE BOARD
(Hearing Held: January 14, 2026)
(Effective Date of Opinion: January 28, 2026)

Case No. A-6949 is an application by Petitioner Paras Shah for a variance needed for the proposed construction of an addition. The proposed construction requires a variance of 2.25 feet as it is within 17.75 feet of the rear lot line. The required setback is twenty (20) feet, in accordance with Section 59.4.4.9.B of the Zoning Ordinance.

The Board of Appeals held a hearing on the application on Wednesday, January 14, 2026. Petitioner Shah was present at the hearing, and was assisted by his architect, Eric Saul.

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

EVIDENCE PRESENTED

1. The subject property is Lot 4, Block 27C, B F Gilberts Add Subdivision, located at 1003 Hopewell Avenue in Takoma Park, Maryland, 20912, in the R-60 Zone. The property is a four-sided, interior lot located on the south side of Hopewell Avenue. The property's rear lot line is angled, resulting in its west (right) side being much shallower than its east (left) side. The property has a total area of 5,000 square feet. See Exhibits 4 and 7.

2. The property contains a house that was built in 1941. The Petitioner's Statement of Justification ("Statement") states that the Petitioner purchased the subject property in 2012. The Statement states that at the time of purchase, the house "was already located 17.75' from the rear lot line," and thus states that the location of the house is not attributable to any actions by the Petitioner. See Exhibit 3. The Building Permit Denial indicates that the required setback from the rear lot line is twenty (20) feet, and that the house is nonconforming. See Exhibit 6.

3. The Petitioner is proposing to build a “second-story dormer addition directly above the footprint of the existing first floor” of the house. As noted in the preceding paragraph and shown on the Site Plan, the right rear corner of the existing house extends 2.25 feet into the setback from the rear lot line. The Statement states that this is because “[t]he rear lot line is angled and clips through the corner of the existing house, causing an irregular condition.” The Statement further states that as a result, a variance is needed “for a small triangular portion of the addition to be built beyond the rear setback line.” The Statement quantifies the extent of the area of incursion as “approximately 8.3 square feet.” See Exhibit 3.

4. The Statement states that the subject property has an “irregular shape” due to its “angled rear lot line.” The Statement further states that the angling of the rear lot line “reduced the size of the lot to only 5,000 square feet compared to the typical standard R-60 lot of 6,000 square feet.” In addition, the Statement states that the “angle of the rear lot line also creates a unique shallowness to the west side of the lot.” See Exhibit 3.

5. The Statement states that the requested variance is the minimum needed to overcome the practical difficulty that full compliance with the Zoning Ordinance would cause the Petitioner on account of the property’s unique features. In support of this, the Statement states that the property’s unique shape, shallowness, and small size “cause[] the zoning requirements to disproportionately impact the reasonable use and enjoyment of this property, thus creating a practical difficulty.” The Statement further states that failure to grant the requested variance “for the very small 8.3 square feet of triangular space” would cause the Petitioner a practical difficulty because he would not be able to “match what neighbors have done, which is to construct a full second floor addition on their houses.” The Statement states that compliance with the setback would also pose issues with the actual construction of the addition, stating that “[w]ithout a variance, it would be impractical from a structural standpoint to clip the corner [of the addition] at an irregular angle to meet the current rear setback requirements.” Finally, the Statement notes that “[b]eing able to build a full-length rear dormer on the second floor would provide much needed space for Petitioner’s family’s needs.” See Exhibit 3.

6. The Statement states that the requested variance “can be granted without impairment to the intent and integrity of the general plan and any applicable master plan in this area.” The Statement states that because the proposed “rear dormer addition” would be directly above the footprint of the existing house, “the proposed addition preserves the residential character of the neighborhood and allows the Petitioner to reinvest in their home and enhance their quality of life.” The Statement further states that the fact that the proposed addition “will not extend beyond the existing footprint below” also ensures that granting the requested variance will not be adverse to the use and enjoyment of neighboring properties because the proposed addition “will not negatively impact the adjoining side yard.” Finally, the Statement states that “[t]he addition will not negatively impact the character, health, safety, welfare, or security of the neighboring residents.” See Exhibit 3.

7. At the hearing, the Petitioner testified that his property is “uniquely” and “oddly” shaped. He testified that the property contains a small Cape Cod-style home. The Petitioner testified that the back right corner of his house projects 2.25 feet into the rear setback. He testified that he is seeking to bump out the roof across the rear of his home to make space for two bedrooms.

The Petitioner testified that he reached out to his abutting neighbor to the right and to the neighbor who lives behind his house about the proposed construction, and neither expressed any concerns. In addition, the Petitioner testified that since posting the variance sign, he has spoken with most of the people on his block about the project, and all have been supportive.

8. Mr. Saul testified that the subject property has an angled rear lot line that causes the rear setback line to “clip” the right rear corner of the existing home. He testified that the property was originally located in Prince George’s County, and that it contains a house that was built in 1941. Mr. Saul testified that this probably explains the setback incursion. In response to a Board question asking if he had any reason to believe that the location of the house on the property was illegal at the time of its construction, Mr. Saul testified that he did not, and he noted that his client was not responsible for the construction of the house.

Mr. Saul testified that only a small triangular area of the proposed construction—less than ten square feet in size—would encroach into the rear setback, but that strict adherence to the required setback would prevent the construction of almost 100 square feet of dormered space. He testified that the proposed construction needs to extend all the way to the exterior walls of the home for structural reasons.

Mr. Saul testified that the construction for which the variance is sought would not extend beyond the footprint of the existing house, as shown on the elevations. He testified that the construction maintains the character of the existing house, and that the peak height of the existing roof is not being increased. Finally, Mr. Saul testified that granting the requested variance to allow the proposed construction would not be detrimental to the neighborhood in any way.

FINDINGS OF THE BOARD

Based on the binding testimony and 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 of the Zoning Ordinance, 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 and the Site Plan, that at 5,000 square feet, the subject property is significantly substandard for the R-60 Zone, which has a 6,000 square foot minimum. See Exhibits 3 and 4. In addition, the Board finds, based on the Statement, the Site Plan, and the testimony of Mr. Saul, that the subject property has an angled rear lot line that makes the right (west) side of the property shallower than the left (east) side, and gives the subject property an unusual shape. The Board finds that these unusual or extraordinary conditions combine to limit the useable area of this property and to cause the existing house to encroach on the required rear setback, 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 Statement and Site Plan, that the proposed development uses an existing structure (i.e. the Petitioner's house) that was built in 1941 and extends approximately 2.25 feet into the required twenty (20) foot setback from the rear lot line. In addition, the Board finds, based on the testimony of Mr. Saul, that the subject property was located in Prince George's County when it was developed and there is no reason to believe that the location of the house was not legal at the time of its construction. Finally, the Board finds that the Building Permit Denial indicates that the existing house is nonconforming. Based on the foregoing, the Board finds that the Petitioner's existing home does not comply with the rear setback required by the Zoning Ordinance and is nonconforming. The Board further finds, based on the Statement, elevations, and the testimony of Mr. Saul, that the proposed "rear dormer addition" would be directly above, and would not expand, the footprint of the existing house. See Exhibits 3, 4, 5(a)-(b), and 6. 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 Statement and the testimony of Mr. Saul, that the house on the subject property was built in its current location in 1941 and that the Petitioner, who purchased the subject property in 2012, was not responsible for its construction. See Exhibit 3. Thus the Board finds that the Petitioner took no actions to create the special circumstances or conditions peculiar to this property, notably its size, shape, and shallowness, and the nonconforming location of the existing 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, based on the Statement and the testimony of Mr. Saul, that the requested variance is the minimum necessary to allow the proposed addition to proceed

on top of the home's existing footprint and exterior walls. The Board finds that the requested variance is minimal in that it would not increase the footprint of the existing nonconforming house or allow the proposed construction to extend any further into the rear setback than the existing house, which has been in place since 1941. The Board notes that only a small, triangular portion of the proposed addition, with a total area of 8.3 square feet, would encroach into the setback. The Board finds that without the grant of the requested variance, the Petitioner could not construct a dormer addition that extends the full width of the existing house and could not use the exterior walls of the existing house as support for the proposed construction, which would significantly reduce the amount of space created by the addition, but more importantly, would cause structural problems with the proposed construction. See Exhibit 3. Thus the Board concludes that compliance with the required rear setback, which is violated by the existing house, would pose a practical difficulty for the Petitioner, and that the grant of the requested variance is the minimum necessary to allow construction of a dormered second story over the existing structure and therefore to overcome the practical 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.*

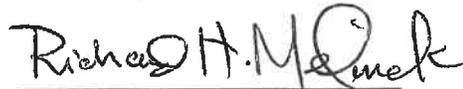
The Board finds, per the Statement, Site Plan, and the testimony of Mr. Saul, that the portion of the addition necessitating variance relief will maintain the footprint of the existing home, and therefore will not encroach any closer on neighboring properties than the existing house or "negatively impact the adjoining side yard." See Exhibits 3 and 4. In addition, the Board finds, based on the Statement and the testimony of Mr. Saul, that the proposed addition will preserve the residential character of the Petitioner's neighborhood. The Board further finds, based on the Statement, that "[t]he addition will not negatively impact the character, health, safety, welfare, or security of the neighboring residents." The Board notes that the Petitioner testified that he had spoken with most of his neighbors, including those most affected, and that none expressed any concerns about the requested variance and resultant construction. Finally, the Board notes that the property was properly posted, that no written opposition was received, and that no one appeared at the hearing in opposition to the grant of the requested variance. On the basis of the foregoing, the Board finds that the grant of the requested variance 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 2.25 foot variance from the rear setback, needed to allow the proposed addition, 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 and 5(a)-(b) (interior layouts excluded).

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



Richard H. Melnick, Vice Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 28th day of January, 2026.



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.