

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**Case No. A-6954  
PETITION OF JER JOU CHENG AND STEPHANIE ENG**

OPINION OF THE BOARD  
(Hearing Date: February 25, 2026)  
(Effective Date of Opinion: March 4, 2026)

Case No. A-6954 is an application by Jer Jou Cheng and Stephanie Eng (the “Petitioners”) for a variance from the requirement in Section 59.4.4.5.B.2 of the Zoning Ordinance that accessory structures be located behind the rear building line of the principal building. The Petitioners are proposing to construct an accessory structure (barn) in their front yard, forward of the rear building line.

The Board of Appeals held a hearing on the application on February 25, 2026. Petitioners Jer Jou Cheng and Stephanie Eng were present at the proceedings, and were represented by Jody Kline, Esquire.

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

**EVIDENCE PRESENTED**

1. The subject property is Lot 49, Block A, Kings Valley Manor Subdivision, located at 24225 Kings Valley Road in Damascus, Maryland, 20872, in the RE-2C Zone. The subject property is an irregularly shaped, eleven-sided property. The property is not a corner property but does have frontage on two roads: Kings Valley Road, which borders the subject property to the southwest, and Ridge Road, which borders the subject property to the southeast. The property has an area of 10 acres. It was platted in 1999 and was purchased by the Petitioners in 2021. The property is currently unimproved. See Exhibits 3, 4(a), 4(c), and 7.

2. The Petitioners’ Statement of Justification (“Statement”) states that the topography of the subject property is “extreme,” noting that the “property elevation along the Ridge Road (MD Route 27) frontage is thirty feet higher than the elevation of the driveway from Kings Valley Road to the proposed residence.” In addition to including contour lines on their Site Plan, the Petitioners have included a topographic map with their variance Application that they assert “reflects the exaggerated terrain and slopes on the Subject Property.” See Exhibits 3, 4(a), and 4(d).

3. The Statement states that while the elevation of the property generally drops from southeast to northwest, there is a "natural feature in the northwest sector of the Property which is an anomaly that effects the siting of manmade improvements such as the residence and the barn." The Statement describes this feature as "an elevated mound or hill that, in effect, segregates the property into two district [*sic*] sectors." See Exhibits 3 and 4(d). The Statement at Exhibit 3 proceeds to describe why relocating the Petitioners' proposed house and barn to the area southeast of this mound would "pose[] several design and practical problems," as follows:

a. Placing the house and barn closer to the center of the property interferes with efficient use of the entire tract for agricultural (e.g., cultivation, grazing) purposes.

b. It places the proposed residence closer to and in line of sight of abutting residences to the northeast and confronting properties directly to the south which detracts from the rural character of the Property which the Applicant's hope to retain.

c. Moving the residence and the barn would increase the amount of imperviousness on the property due to the extended length of the proposed ingress/egress driveway from Kings Valley Road. (Movement of the residence and barn does not make access to the site from Ridge Road any easier because there would be a 30% grade change to overcome to reach the Ridge Road level).

4. The Statement states that the barn could not be located behind the proposed house because of the constraints imposed by the 15 foot side yard setback and by a 100 foot buffer required around a "Manmade Dry Pond" that is located on the abutting property to the north. In addition, the Statement states that the proposed barn could not be located in the area behind the proposed house because of "forest that would be lost if the barn [were] constructed in this area," and "steep slopes" that are "-30% in places." The Statement concludes that "a combination of natural features of the Property, and stringent building requirements applicable to an accessory building, impose an unusual and extraordinary burden on the Subject Property that can only be relieved by the granting of a variance." See Exhibit 3.

5. The Statement states that the subject property satisfies three of the five possible ways in which a property can be found to be unique for the purposes of Section 59.7.3.2.E.2.a of the Zoning Ordinance. The Statement states that the combination of setbacks that are applicable to this unusually shaped property, environmental features both on and off the subject property, and extreme topography combine to make the subject property unique. See Exhibit 3.

With respect to Section 59.7.3.2.E.2.a.i, the Statement notes that the location proposed for the Petitioners' house was selected to "minimize destruction of existing forest" and to "allow for construction to occur in one of the flattest areas on the Property and within a wind break area provided by surrounding forest," among other things. In

addition, the Statement states that the location selected for the house “allow[s] for a minimum amount of land disturbance and imperviousness for a driveway connecting to Kings Valley Road rather than busier Ridge Road, a State Highway.” The Statement goes on to state that with the house in the proposed location, “natural and man-made features,” including the 100 foot buffer required “from an offsite dry pond to the north usurps a large portion of the space behind the residence,” the fifteen (15) foot side setback that “further erodes that buildable area,” and the steep slope behind the proposed house location, make it difficult to comply with the requirement that the barn be located behind the rear building line of the house. See Exhibit 3.

With respect to Section 59.7.3.2.E.2.a.iii, that the proposed development contains environmentally sensitive features or buffers, the Statement states that the property “contains mature tree stands that should be retained to the greatest extent possible.” In addition, the Statement cites the presence of the dry pond as an environmental feature because of the impact the 100 foot buffer from that pond has on the subject property. Finally, the Statement states that “[m]uch of the Subject Property has topography which in Montgomery County’s opinion is classified as ‘steep slopes’ which is treated as unbuildable land due to erosion and sedimentation problems,” and notes that “[t]he proposed barn is sited for an area with more gentle slopes than the land behind the proposed residence.” See Exhibit 3.

Lastly, with respect to Section 59.7.3.2.E.2.a.v, that the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood, the Statement states that the proposed barn “reinforce[s] the rural character” of the property. The Statement further states that the location proposed for the barn “is consistent with a development pattern for the surrounding neighborhood as evidenced by accessory buildings being sited in front of principal structures on at several lots confronting the Subject Property (e.g., 24140 Ridge Road, 24141 Kings Valley Road and 24500 Kings Valley Road).” See Exhibit 3.

6. The Statement states that “[a]ll of the constraints imposed on development of the Subject Property are created by natural features or publicly mandated restrictions and are not the result of actions by the Applicants,” in satisfaction of Section 59.7.3.2.E.2.b of the Zoning Ordinance. See Exhibit 3.

7. In support of a finding that the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with the Zoning Ordinance would impose due to the unusual or extraordinary situations or conditions on the property, the Statement states that the proposed barn will be located in an area of the property that “is relatively free from steep slope problems,” that “remains close enough to the proposed residence that the two structures are complementary,” and that allows the proposed barn to be “located close to the Property’s well, which will be in near proximity to the proposed residence, so that water service will be readily available for barn usage.” See Exhibit 3.

8. The Statement states that “[t]he barn’s location is not inconsistent with Master planning principles applicable to the surrounding area and, in fact, repeats a development pattern that is common in the immediate area and in rural Montgomery County.” Thus

the Statement states that the requested variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan, in satisfaction of Section 59.7.3.2.E.2.d of the Zoning Ordinance. See Exhibit 3.

9. The Statement further states that in light of the large size of the subject property (10 acres), and because there are only four occupied properties that abut the subject property, the requested variance, which is described as a "minor deviation," will not adversely affect surrounding residential farms and residences. See Exhibit 3.

10. At the hearing, Mr. Kline oriented the Board to the subject property using the Zoning Vicinity Map. He stated that the property is located near the northern corner of Ridge Road and Kings Valley Road, that it is ten (10) acres in size, and that it is currently undeveloped. See Exhibit 7. Mr. Kline stated that as shown on Exhibit 4(e), there are houses on the abutting properties to the north, and one to the south at the intersection of Ridge Road and Kings Valley Road. He described the area as a "rural, rustic" area.

Mr. Kline stated that the Site Plan at Exhibit 4(a) shows how the Petitioners are proposing to develop the subject property. He stated that the location of their proposed house was chosen because that area of the property is relatively level. Mr. Kline stated that the location was also chosen because of its proximity to Kings Valley Road, which he said would minimize the amount of pavement needed on the property. Mr. Kline stated that the proposed barn would be located just south of the house, as shown on Exhibit 4(a), and proximate to the property's well. He stated that the Petitioners need a barn to house farming equipment and supplies and because they have an interest in horses.

Referring to the topographical map at Exhibit 4(d), Mr. Kline noted that the property's elevation along Ridge Road is 788 feet, and that the property's elevation drops about fifty (50) feet across the property (i.e. from southeast to northwest). He testified that as shown on this map, there is a mound in the center of the property that has an elevation of 762 feet, and that serves to divide the property into two parts in terms of how it should be developed.

Mr. Kline stated that there are three main reasons, both natural and manmade, that the Petitioners are seeking to locate their barn as proposed. First, he stated that there is a dry pond on the abutting property northeast of the Petitioners' proposed house location that has a required 100 foot buffer. Mr. Kline explained that as shown on Exhibit 4(a), this buffer area extends to just behind the proposed home. Second, Mr. Kline stated that this area of the property is heavily treed. Finally, Mr. Kline stated that there is a 30 to 40 foot slope behind the proposed house. For these reasons, Mr. Kline stated there is no room on the subject property to locate the proposed barn behind the rear building line of the Petitioners' proposed house.

11. Mr. Cheng testified that the property's Ridge Road frontage is steeply sloped, and that it would be difficult to have a house that fronted on Ridge Road. He also noted that Ridge Road is a State highway. Mr. Cheng testified later in the hearing that constructing a house and barn closer to Ridge Road than is proposed would result in additional noise

and "busy"-ness near the structures, and would bring the development closer to the property's southern neighbor. Mr. Cheng testified that if their house was built farther into the property but accessed from Ridge Road, it would be constructed on the portion of the property that he and his wife intend to use for farmland, and would require a very long driveway, increasing imperviousness. Mr. Cheng stated that because of this, they are proposing access from Kings Valley Road, with their proposed house and barn being constructed behind the mound on their property, thereby maximizing the amount of their property that is available for farming. He testified that there is forest behind the proposed house, and that without the grant of the variance, the proposed barn would be within the 100 foot buffer from the dry pond or in the woods. Mr. Cheng testified that if the proposed barn were located behind the rear building line of the house and southeast of the mound, the area of the property available for agricultural purposes would be divided. He further testified that the topography of that part of the property is steep and that there are trees in that area. Mr. Cheng testified that the property's septic field is located on the eastern portion of the property, as shown on Exhibit 4(a).

In response to a Board question asking if he had received any feedback from his neighbors, Mr. Cheng stated that he and his wife currently do not live on the property. He related a "casual" conversation that he had with a passerby while posting the variance sign, and indicated that that person seemed supportive.

Mr. Cheng testified in response to questions from Mr. Kline that in his opinion, environmental factors dictate where the proposed barn can be located on the subject property. He further testified that in his opinion, the requested variance could be granted without substantial impairment to the applicable Master Plan, and he noted the presence of another barn down the street. In response to a question asking if there was a pattern of accessory structures being located forward of the rear building lines of homes in this area, Mr. Cheng described a couple of nearby structures that he believed fit this description. He testified that as proposed, the barn would have no adverse effect on the property's neighbors, and stated that the proposed location is the farthest away from the neighbor who lives at the corner of Ridge Road and Kings Valley Road.

In response to a Board question asking if the proposed construction could be located further south on the property without variance relief, Mr. Cheng testified that was possible, but that it would bifurcate the available farmland, and that it would give the property a more suburban/residential feel as opposed to the rustic type of feel they were seeking. Mr. Kline acknowledged that the property could be developed differently, but stated that the property's topography would complicate construction, and that placement elsewhere on the property would detract from the property's rural rustic feel. In response to a Board question asking why the proposed barn could not be constructed in the location proposed for the house, and the house constructed in the location proposed for the barn, Mr. Cheng testified that this arrangement would pose access problems for the person who farmed the property. He explained that they were considered using a farm match program to find a farmer to work their land, and that they wanted the barn to be accessible to that person and to the farmland without affecting use of the house. Mr. Cheng testified that flip flopping the locations for these structures would also increase imperviousness on

the property by necessitating a longer driveway, causing Mr. Kline to note that the current driveway location preserves the lines of sight on Kings Valley Road.

## 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;*

\* \* \* \* \*

*Section 59.7.3.2.E.2.iii. the proposed development contains environmentally sensitive features or buffers;*

The Board finds, based on the Statement, Site Plan, aerial photograph, topographical map, Zoning Vicinity Map, the testimony of Mr. Cheng, and the representations of Mr. Kline, that the subject property has an unique eleven-sided shape and is encumbered with sloping topography, some of which is severe, heavily treed areas, an usual mound or hill towards the center, and a 100-foot buffer area from an off-site dry pond. See Exhibits 3, 4(a), 4(b), 4(d), and 7. The Board finds that the cumulative restrictions imposed on the property by these unique physical and environmental features, combined with the application of the Zoning Ordinance's locational restrictions and setback requirements to this unusually shaped property, uniquely constrain the area available for the construction of a barn on this property in the area that is "behind the rear building line" of the proposed house, as required by the Zoning Ordinance. The Board thus 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, based on the Statement, that the Petitioners, who purchased the subject property in 2021, are not responsible for its shape, severely sloping topography, tree cover, and "mound," and are not responsible for the presence of the 100-foot dry pond buffer that extends onto their property. See Exhibit 3. Thus the Board finds that the special circumstances or conditions pertaining to this property are not the result of actions taken by the Petitioners.

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, Site Plan, aerial photograph, and topographical map, and based on the testimony of Mr. Cheng and the representations of Mr. Kline, that the constraints imposed by subject property's shape, topography, forestation, "mound," and 100-foot dry pond buffer combine to preclude construction of the Petitioners' barn behind the rear building line of their house, as is required by the Zoning Ordinance. See Exhibits 3, 4(a), 4(b), and 4(d). The Board further finds that any relocation of the proposed barn would not only complicate construction on account of the property's steep slopes, mound, and trees, but would also bring the proposed construction closer to the Petitioners' southern neighbor and would break up the portion of the property that the Petitioners are seeking to farm (or have farmed). The Board finds that these circumstances, taken together, cause the Petitioners a practical difficulty, and that the requested variance, needed to allow the placement of the proposed accessory structure forward of the proposed home's rear building line, is the minimum necessary to overcome this practical difficulty. Accordingly, 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, based on the Statement, that the location of the proposed barn "is not inconsistent with Master planning principles applicable to the surrounding area and, in fact, repeats a development pattern that is common in the immediate area and in rural Montgomery County," and thus can be granted without substantial impairment to the intent and integrity of the general plan and the applicable Damascus Master Plan. See Exhibit 3. 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 and the testimony of Mr. Cheng, that the proposed barn will not adversely affect the use and enjoyment of neighboring properties, due to the property's size and the limited number of abutting properties that contain dwellings. See Exhibit 3. The Board further finds, based on the testimony of Mr. Cheng, that he and his wife are trying to maintain the rural feel of the subject property, and that the only discussion he had with neighbors about the proposed variance was positive. Finally, the Board notes that despite being properly Noticed and posted, the record contains no opposition to the grant of the requested variance, and no one appeared at the hearing in opposition. In light of the foregoing, the Board finds that granting the requested variance will not be adverse to the use and enjoyment of abutting and confronting properties, in satisfaction of this element of the variance test.

Accordingly, the requested variance to allow the construction of an accessory structure (barn) forward of the rear building line 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(a) and 5(a)-(b).

Therefore, based upon the foregoing, on a motion by Caryn L. Hines, Chair, seconded by Richard Melnick, Vice Chair, with Alan Sternstein, Donald Silverstein, and Amit Sharma 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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Caryn L. Hines  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 4th day of March, 2026.



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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.