

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5596

PETITION OF REBECCA WARD
(Hearing held May 30, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, July 31, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes to construct a one-story addition that requires a four (4) foot variance as it is within three (3) feet of the side lot line. The required setback is seven (7) feet.

Lynne Iadorola, the petitioner's architect, appeared with the petitioner at the public hearing.

The subject property is Lot 138, located at 203 Oxford Street, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 00519656).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to enclose an existing 19.5 x 9.2 foot screened porch located in the southwestern section of the property.
2. The petitioner testified that the one-story addition would not expand the existing footprint of the porch. The petitioner testified that the pipes for the upper level bathroom are located on the screened porch and that the pipes are exposed to the elements. The petitioner testified that the proposed construction would permit the coverage of the exposed bathroom pipes.
3. The petitioner testified that Oxford Road curves inward at the front of her lot and that her lot is located at the peak of the curve.
4. The petitioner testified that the materials to be used for the one-story addition would match the residence and that the one-story addition would be screened by the mature vegetation and shrubbery. See, Exhibit No. 4.
5. The petitioner testified that she has spoken with her neighbors and that the neighbor most impacted by the addition has no objections to the variance request, as evidenced by a letter in the record as Exhibit No. 10.

FINDINGS OF THE BOARD

Based on the petitioner's 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-G-3.1 as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

1. The proposed one-story addition would be constructed using the footprint of the existing screened porch and the addition would not extend beyond the porch's existing footprint. The addition would also permit the coverage of the exposed bathroom pipes.
2. The front of the lot moves inward at the front and southwestern side yards. The Board finds that these are unusual and peculiar circumstances and that the strict application of the regulations would result in practical difficulties and an undue hardship upon the property owner.

(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.

The Board finds that the variance requested for the construction of a one-story addition is the minimum reasonably necessary to overcome the property's exceptional circumstances.

(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.

The proposed construction would continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

(d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

The record contains no testimony or correspondence in opposition to the variance request and the most impacted neighbor has no objection to the requested variance. The Board finds that the mature vegetation and shrubbery would screen the proposed addition and that the addition will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of four (4) feet from the required seven (7) foot side lot line setback for the construction of a one-story addition is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, and the testimony of her witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 3 and 6(a) through 6(c).

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.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 31st day of July, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). 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.