

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5619

PETITION OF MR. AND MRS. JOHN HONIG

(Hearing held September 5, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, September 28, 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(a). The petitioners propose to construct a one-story addition that requires a variance of 14.30 feet as it is within 25.70 feet of the front lot line. The required front lot line setback is forty (40) feet.

Michael Gregg, the petitioners' architect, appeared with the petitioners at the public hearing.

The subject property is Lot 15, Block L, located at 7701 Glenmore Spring Way, Bethesda, Maryland, in the R-200 Zone (Tax Account No. 00873771).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a one-story addition in the western side yard. The property is located at the intersection of Hamilton Spring Road and Glenmore Spring Way, with the residence fronting on Glenmore Spring Way.
2. The petitioners testified that the all of the homes in their subdivision were designed and built to fit on the unique topography of the lots and that none of the homes are exactly alike. The petitioners testified that as a corner lot, their property is restricted by two streets.
3. The petitioners testified that the western side yard has a level area before the topography drops off and that the addition would be screened by a hill and dense vegetation.
4. The petitioners testified that the addition has been reviewed and approved by their citizens association and that their neighbors have expressed no objections to the variance request. The petitioners testified that the addition would be similar other additions in the neighborhood.
5. Mr. Gregg testified that the shape of the petitioners' lot is unique and that a hill runs along Hamilton Spring Road that impacts the petitioners' lot and Lot 14. Mr. Gregg testified that the only area that an addition could be built would be in the rear yard,

but that the rear of the residence is built of floor-to-ceiling glass, and that an addition in this area would eliminate the light to the rear of the home.

FINDINGS OF THE BOARD

Based upon the petitioners' binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) 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.

The Board finds that the petitioners' lot, while a corner lot, is not unique and that the property has no peculiar or unique existing topographical conditions that are not shared by the neighboring properties. The topographical condition identified by the petitioner, even if the Board were to find that it was peculiar to the property, does not create the need for the variance.

Since the petition does not meet the requirements of Section 59-G-1.3(a), the Board finds that it does not need to consider the other requirements for granting a variance. Accordingly, the requested variance of 14.30 feet from the required forty (40) foot front lot line setback for the construction of a one-story is denied.

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 Mindy Pittell Hurwitz, Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing 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 28th day of September, 2001.

Katherine Freeman

Executive Secretary to the Board

NOTE:

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.