

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5622

PETITION OF KRYSZYNA BORON

(Hearing held October 10, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, November 8, 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 petitioner proposes to construct a one-story addition that requires a seven (7) foot variance as it is within eighteen (18) feet of the front lot line. The required setback is twenty-five (25) feet.

Krystyna Boron and Norman Brenner, the property owners, attended the public hearing.

The subject property is Lot 14, Block 14, located at 5813 Augusta Lane, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 00561597).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a 10 x 7 foot one-story addition (entry vestibule). The proposed construction would expand the existing front steps and provide a covering.
2. The petitioners testified that the property is a very shallow lot that is 70 feet in depth. The petitioners testified that the house is only one room deep and that the entrance to the home opens directly into the living space.
3. The petitioners testified that property is a corner lot located at the intersection of Augusta Street and Augusta Lane and that the addition would provide the residence with some privacy and a barrier from the noise of the traffic coming from the intersection.
4. The petitioners testified that their neighbors and their homeowners association support the variance request and that the proposed construction would be keeping with similar structures in the neighborhood.

FINDINGS OF THE BOARD

Based on the petitioners' 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.

The Board finds that the exceptional shallowness of the lot is a condition unique and peculiar to the property and that the strict application of the regulations would result in an undue hardship upon the petitioners if the variance were to be denied.

(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 exceptional circumstances of the property.

(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 will 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. The proposed construction will be in keeping with similar improvements in the neighborhood and the Board finds that variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of seven (7) feet from the required twenty-five (25) foot front lot line setback for the construction of a one-story addition is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, 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. 4 and 5(a) and 5(b).

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 Allison Ishihara Fultz, with Angelo M. Caputo and Donna L. Barron, Vice Chairman, in agreement, the Board adopted the foregoing Resolution. Board Chairman Donald H. Spence, Jr. was necessarily absent and did not participate in this Resolution.

Donna L. Barron
Vice 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 8th day of November, 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.