

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5633

PETITION OF ARON AND ELISHA FRIEDMAN

(Hearing held September 26, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, October 25, 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 petitioners propose the installation of an air conditioning unit that requires a two (2) foot variance as it is within three (3) feet of the side lot line. The required setback is five (5) feet.

The subject property is Lot 14, Block 1, Martins 4th Addition Subdivision, located at 7313 Summit Avenue, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 340898643).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners installed an air conditioning unit in the northern side yard.
2. Mr. Friedman testified that a contractor, prior to obtaining a building permit, installed the air conditioning unit and that the petitioners were not aware until after the installation of the unit that it would require a variance.
3. The petitioners testified that the air conditioning unit replaces the house's original window units. The petitioners testified that the variance is required because the refrigerant piping that links the indoor and outdoor units cannot extend more than 50 feet and to permit the air conditioning unit to be within close proximity to the electrical fuse box.

FINDINGS OF THE BOARD

Based upon the petitioners' bind 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 is not unique and has no existing peculiar or exceptional topographical conditions that are not shared by the neighboring properties. The Board finds that the petitioners' lot is similar in shape and size to neighboring Lots 10 through 15. The Board further finds that the request for a variance is a self-created hardship and not as a result of land use related issues.

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 two (2) feet from the required five (5) foot side lot line setback for the installation of an air conditioning unit 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 be 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 Donna L. Barron, 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 25th day of October, 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

