

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5693

PETITION OF SAHID S. HARDJA, ET AL
(Hearing held January 9, 2002)

OPINION OF THE BOARD
(Effective date of Opinion, February 8, 2002)

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)(2). The existing one-story addition requires a fifteen (15) foot variance as it is within five (5) feet of the rear lot line. The required setback is twenty (20) feet.

Janet Solistija, the petitioner's daughter-in-law, appeared with Mr. Hardja at the public hearing.

The subject property is Lot 5, Block 23, Glenmont Hills Subdivision, located at 3305 Janet Road, Silver Spring, Maryland, in the R-60 Zone (Tax Account No. 01195506).

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

EVIDENCE PRESENTED TO THE BOARD

1. The existing one-story addition is located at the rear of the residence. The residence is located at the intersection of Valleywood Drive and Janet Road, with the house oriented to face the two streets.
2. Ms. Solistija testified that the petitioner made three attempts to acquire a building permit for the addition and was unaware of the required setbacks for the structure. Ms. Solistija testified that the petitioner was advised by the Department of Permitting Services that an addition could not be added to the top of the house because the existing foundation would not support a second story.
3. Ms. Solistija testified that an existing shed addition was removed and that the addition now occupies a portion of the same area. In response to questions from the Board, Ms. Solistija testified that the property is similar in size to the neighboring properties.

FINDINGS OF THE BOARD

Based upon the petitioner's 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 petitioner's lot has no peculiar topographical or other conditions are not shared by the neighboring properties. The Board finds that the shape and size of the petitioner's property is consistent in with the other lots in the immediate neighborhood, as shown on Exhibit No.8.

The Board notes that had the petitioner completed the building permit process, the petitioner would have received information regarding the required setbacks.

The petition does not meet the requirements set forth in Section 59-G-1.3(a) of the Zoning Ordinance and the Board did not consider the other requirements for the grant of a variance. Accordingly, the requested variance of fifteen (15) feet from the required twenty (20) foot rear lot line setback for the existing one-story addition 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 Angelo M. Caputo, with Donna L. Barron, Allison Ishihara Fultz 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 8th day of February, 2002.

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.