

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. A-5765

PETITION OF EDWARD AND MAUREEN FEROLI

(Hearing held June 12, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, July 12, 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 petitioners propose to construct a screened porch that requires a seven (7) foot variance as it is within eighteen (18) feet of the rear lot line. The required setback is twenty-five (25) feet.

William Chen, Esquire, represented the petitioners at the public hearing.

The subject property is Lot 44, Block O, Old Farm Subdivision, located at 7 Old Club Court, Rockville, Maryland, in the R-90 Zone (Tax Account No. 00098415).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a 12 x 24 foot screened porch.
2. The petitioner testified that he believed the property is oddly shaped and results in a very shallow rear yard. He also stated that the sloping topography in the southern side yard prevents new construction in this area and that no entrance to the residence is located on this side of the house.
3. The screened porch would be built on the existing patio footprint and would not exceed the footprint of the patio. A characteristic of the petitioners' subdivision are the many cul-de-sacs, which result in variously shaped lots.

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 has no exceptional topographical or other conditions not shared with the adjoining and neighboring properties. The Board also finds that the petitioners' lot has a distinguishable, but not an extraordinary shape, as do most of the lots in the subdivision. See, Exhibit No. 9 (zoning vicinity map).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements set forth in that section for the grant of a variance. Accordingly, the requested variance of seven (7) feet from the required twenty-five (25) foot rear lot line setback for the construction of a screened porch 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 Donna L. Barron, seconded by Angelo M. Caputo, with Louise L. Mayer, Allison Ishihara Fultz, and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following 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 12th day of July, 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.