

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600
(www.co.mo.md.us/council/board/html)

Case No. A-5774

PETITION OF PATRICIA H. BUHL
(Hearing held June 19, 2002)

OPINION OF THE BOARD
(Effective date of Opinion, August 2, 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 variances from Section 59-C-1.326(a)(2)(c) and 59-C-1.326(a)(2)(b). The petitioner proposes to construct an accessory structure (garage) that requires variances of four (4) feet as it is within one (1) foot of the side lot line and of four (4) feet as it is within one (1) foot of the rear lot line. The required side and the rear lot line setbacks are five (5) feet.

The subject property is Lot 31, Block 2, West Chevy Chase Subdivision, located at 4609 Highland Avenue, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 160700543816).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners, John and Patricia Buhl, appeared at the public hearing and propose to expand the existing accessory structure/shed into a two-car garage.
2. The petitioners testified that the shed is located in the northwest corner of the lot and that it is currently sited 2 feet from the side and rear lot lines. See, Exhibit No. 4. The petitioners testified that the property backs up to an alley that runs along the length of the properties on Highland Avenue. See, Exhibit No. 8.
3. The petitioners testified that the expansion of the shed would be into the interior of the lot and that the garage footprint would not be any closer to the side and rear lot lines than the existing shed.
4. The petitioners testified that the structure was converted by a previous owner into a garden shed and that the shed is unusable as is. The petitioners testified that the garage would adjoin a similar structure on the neighboring property.

FINDINGS OF THE BOARD

Based upon the petitioners' binding testimony and the evidence of record, the Board finds that the variances must be denied. The requested variances do 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 neighboring properties. The Board further finds that the petitioners' lot is similar in size and shape to other properties in the neighborhood as shown on the zoning vicinity map (exhibit no. 8).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variances four (4) feet from the required five (5) foot side lot line setback and of four (4) feet from the required five (5) foot rear lot line setback for the construction of an accessory structure (garage) are 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 Allison Ishihara Fultz, with Angelo M. Caputo and Donna L. Barron, in agreement, the Board adopted the following Resolution. Board member Donald H. Spence, Jr., Chairman, was necessarily absent and did not participate in the 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 2nd day of August, 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.