

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

Case No. A-5897

PETITION OF JOEL BREWER
(Hearing held July 9, 2003)

OPINION OF THE BOARD
(Effective date of Opinion, August 12, 2003)

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-.323(a). The petitioners propose to construct a two-story addition that requires a six (6) foot variance as it is within one (foot) of the side lot line. The required setback is seven (7) feet.

The subject property is Lot 13, Block 4, Sonoma Subdivision, located at 8905 Oneida Lane, Bethesda, Maryland, 20817, in the R-60 Zone (Tax Account No. 00534184).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a two-story addition in the northeast section of the lot.
2. The petitioners testified that they have a small lot in comparison to the neighboring and adjoining properties. The petitioners' lot is 6,700 square feet. The petitioners testified that their lot receives the water runoff from the neighboring lots and that their lot often floods.
3. The petitioners testified that the addition was designed to be in harmony with the other homes in the neighborhood and that any other style of addition would not retain the house's value. The petitioners testified that the addition could not be located elsewhere on the property because of an existing exercise/swimming spa.

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 peculiar to the property that are not shared by the neighboring and adjoining properties.

The Board notes that the lot sizes in the petitioners' neighborhood vary and that the petitioners' lot size is consistent with the lot sizes in the neighborhood and that the lot meets the minimum lot size for the zone. See, Exhibit No. 8 (zoning vicinity map). The conditions of the petitioners' lot do not create a zoning reason for the grant of the requested variance.

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 variance of six (6) feet from the required seven (7) foot side lot line setback for the construction of a two-story addition is denied.

The Board adopted the following Resolution:

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Allison Ishihara Fultz, and Donald H. Spence, Jr., Chairman, in agreement, 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.

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 August, 2003.

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.