

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

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

**Case No. A-5931**

**PETITION OF HILLARY GOULDING**

(Hearing held October 15, 2003)

**OPINION OF THE BOARD**

(Effective date of Opinion, November 5, 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-1.323(b)(2). The petitioner proposes to construct a one-story addition that requires a four (4) foot variance as it is within twenty-one (21) feet of the rear lot line. The required setback is twenty-five (25) feet.

Martin Hutt, Esquire, represented the petitioner at the public hearing.

The subject property is Lot 20, Block C, Locust Ridge Subdivision, located at 6616 Landon Lane, Bethesda, Maryland, 20817, in the R-90 Zone (Tax Account No. 02473133).

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

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes to construct a 11.5 x 5.75 foot one-story addition.
2. The petitioner testified that his property is an irregularly shaped lot that narrows from front to rear and that the property has an angled rear yard boundary. The petitioner testified that the proposed construction would expand the family's existing eating space.
3. The petitioner testified that the neighboring lots are rectangular in shape and that his lot is not. The petitioner's lot size is 9,770 square feet. The petitioner testified that the house is sited at an angle of the lot and that the amount of the requested variance diminishes from north to south.
4. Mr. Hutt stated that the placement of the house is an exceptional circumstance in accordance with the variance standards of the Zoning Ordinance and that new construction can not be located elsewhere on the petitioner's property.

## **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 exceptional topographical or other conditions that are not shared with the neighboring properties and that the petitioner's lot is similar in shape and size to neighboring Lots 19 and 21. See, Exhibit No. 10 (zoning vicinity map).

The Board further finds that uniqueness or peculiarity for purposes of the evaluation of a proposed variance does not refer to the extent of the improvements upon the property. (*Umerley v. People's Counsel*, 108 Md. App. 497, 506 (1996) citing *North v. St. Mary's County*, 99 Md. App. 502, 514 (1994).

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 four (4) feet from the required twenty-five (25) foot rear lot line setback for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

Board Chairman Donald H. Spence, Jr., and member Donna L. Barron, were necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Allison Ishihara Fultz, 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.

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Allison Ishihara Fultz  
Acting 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 5th day of November, 2003.

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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.