

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. A-5965

PETITION OF STANLEY AND GAIL VOSSLER

(Hearing held March 17, 2004)

OPINION OF THE BOARD

(Effective date of Opinion, April 2, 2004)

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 one-story addition that requires an 11.25 foot variance as it is within 8.75 feet of the rear lot line. The required setback is twenty (20) feet.

Laurie Kawa, an architect, appeared with the petitioner at the public hearing.

The subject property is Lot 10, Block 87, Connecticut Avenue Estates Subdivision, located at 13011 Bluhill Court, Silver Spring, Maryland, 20906, in the R-60 Zone (Tax Account No. 1301238903).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a 15 x 40.2 foot one-story addition at the rear of the residence.
2. The petitioner testified that the property is an unusually shaped, shallow lot and that a variance would be required for any new construction because of the shape of the lot. The petitioners' lot is 8,778 square feet.
3. Ms. Kawa testified that the petitioners' property is a wedge-shaped lot, which has a western side yard that is shorter than the eastern side yard. Ms. Kawa testified that the proposed addition would include a kitchen extension, a family-room and an eating area.
4. Ms Kawa testified that any new construction on the property is adversely impacted because the siting of the house and the property's location on a cul-de-sac. Ms. Kawa testified that new construction could not be added to other areas of the property because of costs and the internal design of the residence.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can not be granted. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1 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' property has no exceptional topographical or other conditions not shared with the neighboring and adjoining properties and that while the petitioners' lot is distinctive, it is similar to adjoining Lot 9. See, Exhibit No. 7 [zoning vicinity map].

The Board notes that the petitioners' lot exceeds the minimum lot size for the zone and that neither the siting of a house nor its internal design are zoning reasons which justify the grant of a 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 11.25 feet from the required twenty (20) foot rear lot line setback for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

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

Allison Ishihara Fultz
Presiding 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 April, 2004.

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.