

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

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

Case No. A-5989

PETITION OF SHARON FALL
(Hearing held June 23, 2004)

OPINION OF THE BOARD
(Effective date of Opinion, July 22, 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(a). The petitioner proposes to construct a one-story addition that requires a variance of eighteen (18) feet as it is within twenty-two (22) feet of the front lot line. The required setback is forty (40) feet.

The subject property is Lot 33, Block B, Clearing Manor Subdivision, located at 25238 Conrad Court, Damascus, Maryland, in the R-200 Zone (Tax Account No. 01920732).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 23 x 24 foot one-story garage addition.
2. The petitioner testified that the front of her property slopes upward and that the house is located at the top of the slope. The petitioner testified that the siting of an addition in the eastern side yard would eliminate the property's limited recreational area and would also reduce the lot's privacy.
3. The petitioner testified that a garage could not be located in the rear yard because of an existing pool and that new construction in another area of the property would be out of character with other improvements in the neighborhood. The petitioner testified that the family has five automobiles and two boats and that the garage would provide covered parking on the 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 peculiar to the property that are not shared with the neighboring properties. The Board further finds that the petitioner's lot is similar in shape and size to the other adjoining and confronting lots on Conrad Court and that new construction could be built on the property without the necessity of a variance. 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 in that section for the grant of a variance. Accordingly, the requested variance of eighteen (18) feet from the required forty (40) foot front lot line setback for the construction of a one-story garage addition is denied.

The Board adopted the following Resolution:

Board member Louise L. Mayer was necessarily absent and did not participate in this Resolution. On a motion by Allison Ishihara Fultz, seconded by Angelo M. Caputo, with Donna L. Barron 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 22nd day of July, 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.