

**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-6002

PETITION OF MICHAEL DE BLEECKER
(Hearing held August 25, 2004)

OPINION OF THE BOARD
(Effective date of Opinion, September 16, 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-1.326(a)(2)(c). The petitioner proposes to construct an addition to the existing detached garage that requires a 9.50 foot variance as it is within 2.50 feet of the rear lot line. The required setback is twelve (12) feet.

The subject property is Lot 2, Kruhms Subdivision, located at 15401 Good Hope Road, Silver Spring, Maryland, 20905, in the RE-1 Zone (Tax Account No. 01805831).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 9 x 32 foot addition to an existing detached garage. The existing garage is 30 x 32 feet.
2. The petitioner testified that the property is a corner lot located at the intersection of Colesberg Street and Good Hope Road. The petitioner testified that the addition will be used for storage and that in the past his lot has experienced water runoff problems. The petitioner testified that the property has a gentle, rolling slope that is characteristic of the other lots in the neighborhood.
3. The petitioner testified that the location for the addition was chosen to preserve the green-space on the property and that the addition will be similar to other improvements in the neighborhood. The petitioner's lot is 21,830 square feet.

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 property has no exceptional topographical or other conditions peculiar to the property and that are not shared with the adjoining and neighboring properties. The Board further finds that new construction could be added to the property without the need for a variance and that the petitioner's lot is significantly larger than many of the properties in the immediate neighborhood. See, Exhibit No. 8 [zoning vicinity map].

(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions

The Board finds that the variance requested for the garage addition is not the minimum reasonably necessary.

The petition does not meet the requirements of Section 59-G-1.3(a) and (b). The Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of 9.50 feet from the required twelve (12) foot rear lot line setback for the construction of a garage addition is denied.

The Board adopted the following Resolution:

Board member Allison Ishihara Fultz was necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, 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 16th day of September, 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.