

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. A-6003

PETITION OF ROSEMARY M. KILLEN
(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-1.323(b)(2). The petitioner proposes to construct a one-story addition that requires a four (4) foot variance as it is within sixteen (16) feet of the rear lot line. The required setback is twenty (20) feet.

David Lenk of Patio Enclosures represented the petitioner at the public hearing.

The subject property is Lot 33D, Block E, Woodside Park Subdivision, located at 9218 Watson Road, Silver Spring, Maryland, 20910, in the R-60 Zone (Tax Account No. 01432002).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a 14 x 22 foot one-story addition/sunroom at the rear of the residence.
2. Mr. Lenk testified that property has a sloping terrain and that this is characteristic of the neighborhood. Mr. Lenk testified that the petitioner has an irregularly-shaped, narrow, rear yard and that the addition will be built on the existing concrete patio. Mr. Lenk testified that the addition will be built on a level area on the property and that the addition will back-up to an existing retaining wall. The lot is 7,895 square feet.

FINDINGS OF THE BOARD

Based upon the 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 adjoining and confronting properties. The Board notes that the shape and size of the petitioner's property is consistent with the other lots in the neighborhood and that the lot exceeds the minimum lot size for the R-60 Zone. See, Exhibit No. 8 [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 four (4) feet from the required twenty (20) foot rear lot line setback for the construction of a one-story addition/sunroom 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 Donna L. Barron, with Angelo M. Caputo 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.