

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. A-6015

PETITION OF CHARLOTTE JENSEN
(Hearing held September 29, 2004)

OPINION OF THE BOARD
(Effective date of Opinion, November 3, 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 the renovation of an existing screened porch that requires a variance of four (4) feet as it is within 23.50 feet of the established front building line. The required established building line is 27.50 feet.

Soren and Charlotte Jensen, petitioners, were represented at the public hearing by Skip McGinnis, an architect.

The subject property is Lot 7, Block 8, Bannockburn Subdivision, located at 6213 East Halbert Road, Bethesda, Maryland, 20817, in the R-60 Zone (Tax Account No. 00684244).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose the demolition and reconstruction of an existing screened porch.
2. Mr. McGinnis testified that the petitioners' house is sited at an angle on the lot and away from East Halbert Road. Mr. McGinnis testified that the screened porch was built in 1950 or 1951, and that it is currently located in the front yard setback.
3. Mr. McGinnis testified that the proposed renovation of the porch will reduce the existing footprint of the porch from a 7 x 28.8 foot structure, to a 7 x 19.8 foot one-story addition. Mr. McGinnis testified that the existing porch has a gable roof and that the new addition will have a flat roof to minimize the height and mass at the front of the house. See, Exhibit No. 7 [photograph of the existing structure].

FINDINGS OF THE BOARD

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies 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 existing porch was built in 1950 or 1951 and it is currently located in the front yard setback. The proposed construction will reduce the footprint of the existing structure and the addition will be located farther from the street than the existing structure. The Board finds that these are exceptional circumstances peculiar to the property and that the strict application of the zoning regulations would result in practical difficulties for the property owners.

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

The Board finds that the variance request for the construction of a one-story addition is the minimum reasonably necessary.

- (c) *Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The Board finds that the proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that the flat roof of the proposed addition will minimize the height and mass at the front of the house and that the variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of four (4) feet from the required 27.50 foot established front building line is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, and the testimony of their witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4(a) and 4(b) and 5(a) through 5(e).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Donna L. Barron, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

Allison Ishihara Fultz
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 3rd day of November, 2004.

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve (12) month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

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.