

**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-6039**

**PETITION OF CHRISTINE POMMIER**  
(Hearing held January 5, 2005)

**OPINION OF THE BOARD**  
(Effective date of Opinion, February 7, 2005)

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 construction of a one-story addition that requires a 13.33 foot variance as it is within 11.67 feet of the front lot line. The required setback is twenty-five (25) feet.

Mehmet Ergene, an architect, appeared with the petitioner at the public hearing.

The subject property is Lot 17, Bon Air Heights Subdivision, located at 6205 Windward Place, Bethesda, Maryland, 20816, in the R-60 Zone (Tax Account No. 0703350881).

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

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes the construction of a one-story addition.
2. The petitioner testified that Windward Place is a short, curving road. The petitioner testified the Windward Place has five properties that front on it [Lots 10, 11, 12, 17 and 18] and four properties that back up to Windward Place, but front on MacArthur Boulevard [Lots 1, 2, 3 and 4]. See, Exhibit No. 8 [zoning vicinity map].
3. Mr. Ergene testified that the petitioner's property is a densely wooded, triangular-shaped, corner lot that is surrounded by lots that are either larger or rectangular in shape. Mr. Ergene testified that the irregular shape of the lot, coupled with its three-tiered topography, severely restricts the property's buildable area. See, Exhibit No. 11 [M-NCPPC contour map].
4. Mr. Ergene testified that the lot's total square footage is 6,354 square feet, although only 1,374 feet is usable land area. Mr. Ergene testified that the existing house has a total square footage of 1,532 and that the new construction would add approximately 829 square feet, increasing the house's total square footage to 2,361 square feet.

## **FINDINGS OF THE BOARD**

Based on the petitioner's 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 petitioner's property is a very shallow, triangular-shaped lot with a severely restricted remaining buildable footprint. The Board finds that these are exceptional circumstances peculiar to the property and that the strict application of the zoning regulations would result in unusual practical difficulties to the property owner.

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

The Board finds that the variance requested 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 new construction will be screened by the dense vegetation on the property and that the variance requested will not be detrimental to the use and enjoyment of the neighboring and adjoining properties.

Accordingly, the requested variance of 13.33 feet from the required twenty-five (25) foot front lot line setback for the construction of a one-story addition is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, and the testimony of her witness, 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 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 Wendell M. Holloway, with Donna L. Barron, Angelo M. Caputo and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the foregoing Resolution.

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Allison Ishihara Fultz  
Chair, 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 7th day of February, 2005.

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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.