

**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-6045

PETITION OF GERTRUDE A. BURR
(Hearing held February 9, 2005)

OPINION OF THE BOARD
(Effective date of Opinion, March 24, 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 variance of 7.17 feet as it is within thirty (30) feet of the established front building line. The required established front building line is 37.17.

John Valenta appeared with the petitioner at the public hearing.

The subject property is Lot 12, Block K, Alta Vista Terrace Subdivision, located at 6008 Beech Avenue, Bethesda, Maryland, 20817, in the R-60 Zone (Tax Account No. 00680270).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes the construction of 3 x 6 foot one-story addition.
2. The petitioner testified that the new construction will be a foyer for the residence. The petitioner testified that her lot does not receive a lot of sun and that during inclement weather the front of the house is icy and dangerous. The petitioner testified that the neighboring properties have structures that provide protection against the elements.
3. The petitioner testified that a covered porch could be built without the need of a variance, but that a covered porch would not be esthetically compatible with the design of the house. The petitioner testified that

her lot is fairly flat and that it is similar in size and shape to other lots on the street. The petitioner's lot is 6,821 square feet.

4. Mr. Valenta testified that a covered porch on the petitioner's property would more intrusive than a one-story addition and that the front of the petitioner's property slopes up about two feet from the street. Mr. Valenta testified that the addition would not be significantly visible because of the curve of Beech Avenue and that the proposed addition would not extend farther than some of the existing homes on the street.

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 lot. Additionally, the Board finds that the petitioner's lot is similar in size and shape to the other properties along Beech Avenue. See, Exhibit No. 9 [zoning vicinity map].

The Board notes that the petitioner's lot meets the minimum size for the zone and that neither the siting of a house nor consideration of design elements are factors which justify the grant of a variance.

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 7.17 feet from the required 37.17 foot established front building line for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Wendell M. Holloway, and Allison Ishihara Fultz, Chair, 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.

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 24th day of March, 2005.

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.