

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. A-6065

PETITION OF FRANCIS G. AND LISA N. THOMPSON

(Hearing held April 27, 2005)

OPINION OF THE BOARD

(Effective date of Opinion, June 16, 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(b)(1). The petitioners propose the construction of a one-story addition that requires a two (2) foot variance as it is within five (5) feet of the side lot line. The required setback is seven (7) feet.

The subject property is Lot 1, Block D, located at 3407 Coquelin Terrace, Chevy Chase, Maryland, 20815, in the R-60 Zone (Tax Account No. 00602346).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose the demolition and replacement of an existing 12.5 x 15.5 foot screened porch with a one-story addition. See Exhibit No. 7(a) and 7(b) [photographs].
2. The petitioner testified that his lot was platted in 1947 and that the existing screened porch was built in 1951. The petitioner testified that his property is an irregularly-shaped lot that adjoins Outlot A. The petitioner testified that Outlot A is owned by the Chevy Chase Land Company and that for an annual fee he leases a 1,500 square foot portion of Outlot A. The petitioner testified that his lot is 6,500 square feet and that a major portion of the existing screened porch is located on Outlot A. See, Exhibit No. 4 [site plan].
3. The petitioner testified that Outlot A is an undeveloped lot, which adjoins Coquelin Parkway at its western boundary. Coquelin Parkway is a paper street. The petitioner testified that the rear of his lot and

Outlot A adjoin the Crescent Trail. See Exhibit No. 10 [zoning vicinity map].

4. The petitioner testified that the existing screened porch is a legally built structure and that it is currently in need of repair. The petitioner testified that the porch is currently located in the side yard setback. The petitioner testified that the addition will be rebuilt on the porch's existing footprint and that the new construction will not expand the existing footprint.

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 existing screened porch has existed since 1951. The existing porch is currently located in the western side yard setback. The addition, as proposed, will be built on the porch's existing footprint and will not expand the existing footprint.

The Board finds that these are exceptional circumstances that are peculiar to the petitioners' property and that the strict application of the zoning regulations would result in practical difficulties to and an undue hardship upon the property owners.

- (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 proposed construction will not materially impact the view from the surrounding homes and that the variance will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variance of two (2) feet from the required seven (7) foot side 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 his testimony and exhibits of record, 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 and 5(h).

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 Donna L. Barron, seconded by Angelo M. Caputo, with Louise L. Mayer, Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the foregoing Resolution.

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 16th day of June, 2005.

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.