

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

**Case No. A-6091**

**PETITION OF JOHN W. AND CAROLE S. MASLIN**  
(Hearing held September 21, 2005)

**OPINION OF THE BOARD**  
(Effective date of Opinion, October 14, 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 petitioners propose to construction of a two-story addition that requires a four (4) foot variance as it is within twenty-one (21) feet of the front lot line. The required setback is twenty-five (25) feet.

The petitioners were represented at the public hearing by Outerbridge Horsey, an architect.

The subject property is Lot 10, Block 5, Green Acres Subdivision, located at 5214 Little Falls Drive, Bethesda, Maryland, 20816, in the R-60 Zone (Tax Account No. 00562251).

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

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioners propose the construction of a two-story addition.
2. Mr. Horsey testified that the property is located at the intersection of Greenway and Little Falls Drives and that it is a uniquely-shaped, narrow lot. Mr. Horsey testified that the petitioners' lot has a curved eastern boundary, which results in a very shallow buildable envelope. Mr. Horsey testified that the property's buildable envelope is significantly smaller than the neighboring lots. See, Exhibit Nos. 8(b) [buildable area map] and 8(c) [aerial view].
3. Mr. Horsey testified that the property has an existing one-story addition that will be demolished and rebuilt as a two-story addition. Mr. Horsey testified that only one other lot in the immediate neighborhood, Lot 10, Block 6, is smaller than the petitioners' lot. Mr. Horsey testified that the width of the neighboring lots is approximately 65 feet and that the

petitioners' lot is 48 feet in width. Mr. Horsey testified that with the new construction, the total lot coverage on the petitioners' lot will be 27%.

4. In response to questions from the Board, Mr. Horsey testified that the Department of Permitting Services [DPS] determined that the southern section of the subject property adjoins a public alley and that this area is considered a rear yard. Mr. Horsey testified that Lot 17, Block 5, which backs up to the petitioners' lot, is not considered an adjoining lot because it also adjoins an alley. DPS determined that the development standards in Section 59-C-1.323 of the Montgomery County Zoning Ordinance do not apply to the petitioners' lot.
5. The petitioner testified that the proposed addition would follow the roofline for the existing house and that the new construction would be in harmony with the existing homes in the neighborhood. The petitioner testified that she had spoken with her neighbors and that the neighbors supplied letters of support. See, Exhibit Nos. 11(a) and 11(b).

### **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 petitioners' property is a uniquely-shaped lot. The shape of the lot severely restricts the property's buildable envelope. The subject property is one of the smallest in the immediate neighborhood. The Board finds that these are exceptional circumstances peculiar to the petitioners' property and that the strict application of the zoning ordinance 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 two-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 that 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 addition will not materially change the view from the nearby 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 four (4) feet from the required twenty-five (25) foot front lot line setback for the construction of a two-story addition 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 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) and 5(b).

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.

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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 14th day of October, 2005.

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Katherine Freeman  
Executive Director

**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.