

**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-6096

PETITION OF PETER MANNON
(Hearing held September 28, 2005)

OPINION OF THE BOARD
(Effective date of Opinion, October 28, 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 variances from Sections 59-B-5.3(a) and 59-C-1.323(b)(2). The petitioner proposes the construction of a one-story addition that requires a 1.30 foot variance as it is within 5.70 feet of the side lot line and a variance of fifteen (15) feet as it is within five (5) feet of the rear lot line. The required side lot line setback is seven (7) feet and the required rear lot line setback is twenty (20) feet.

The subject property is Part of Lots 8 and 9, Block 2, Chevy Chase Section 4 Subdivision, located at 3921 Aspen Street, Chevy Chase, Maryland, 20815, in the R-60 Zone (Tax Account No. 00462286).

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

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes the construction of a 10.5 x 14 foot one-story addition.
2. The petitioner testified that his property is a small, shallow lot, consisting of approximately 5,300 square feet, with a depth of 60 feet. The petitioner testified that his lot is one of smallest lots in the neighborhood and that the existing dwelling is currently sited in the side and rear yard setbacks.
3. The petitioner testified that the application of the required setbacks to his property would result in a remaining buildable envelope of 825 square feet. The petitioner testified that he proposes to demolish an existing covered porch and rebuilt a one-story addition and that the proposed construction will not expand the footprint of the existing

porch. The petitioner testified that the design of the proposed addition will maintain the existing roofline.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variances can be granted. The requested variances comply 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 small, shallow lot of approximately 5,300 square feet. The lot has a depth of 60 feet and it is substandard for the R-60 Zone. The existing dwelling is currently located in the property's side and rear yard setbacks. The lot is one of the smallest in the immediate neighborhood. The Board finds that these are exceptional conditions peculiar to the petitioner's property and that the strict application of the zoning regulations would result in practical difficulties to and an undue hardship upon the petitioner. See, Exhibit Nos. 9 [zoning vicinity map] and 12 [revised site plan].

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

The Board finds that the variances requested for the construction of a one-story addition are 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 variances 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 maintain the existing roofline of the residence and that the variances will not be detrimental to use and enjoy of the adjoining and neighboring property owners.

Accordingly, the requested variances of 1.30 feet from the required seven (7) foot side lot line setback and of fifteen (15) feet from the required twenty (20) foot rear lot line setback for the construction of a one-story addition are 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 variances.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4, 5(a) through 5(h), and 12.

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.

Board member Wendell M. Holloway was necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo 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 28th day of October, 2005.

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.