

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**Case No. A-6266**

**PETITION OF MARK S. AND GRETCHEN H. RIDDLE**  
(Hearing held November 11, 2008)

**OPINION OF THE BOARD**

(Effective date of Opinion, December 19, 2008)

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-C-1.326(2)(a) and 59-C-1.326(1). The petitioners propose the construction of an one-story accessory structure/detached garage that requires a variance of nine and sixty-five hundredths (9.65) feet as it is within fifty-five and thirty-five hundredths (55.35) feet of the front lot line and to permit the accessory structure/detached garage to be located in the side yard. The required established front building line is sixty-five (65) feet.

The subject property is Lot 8, Block B, Carderock Springs Subdivision, located at 8503 Fenway Road, Bethesda, Maryland, 20817, in the R-200 Zone (Tax Account No. 00872947).

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

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioners propose the construction of a 24 x 24 foot accessory structure/detached garage.
2. The petitioner testified that his lot has unique characteristics. The petitioner testified that the lot is irregularly shaped, the lot is smaller than neighboring lots, and the neighboring lots do not share the same topography. The petitioner testified that the lot's topography is tiered and slopes downward to a ravine. The petitioner testified that his lot is near the Cabin John Creek and that the lot's rear yard has a significant drop in grade. The petitioner testified that the property's electrical and sewage lines are also located in the rear yard. The subject property is 17,435 square feet. See Exhibit Nos. 4(a) [site plan] and 11(a) through 11(g).

3. The petitioner testified that his lot is not considered a corner lot because Outlot A wraps around the southeast section of the lot. The petitioner testified that Outlot A adjoins Carderock Springs Drive and that Outlot A is owned by the Carderock Springs Neighborhood Association. The petitioner testified that siting the proposed construction in the southeastern section of the property would block existing bedroom windows and would require the relocation of the house's front door. See Exhibit No. 7 [zoning vicinity map].

### **FINDINGS OF THE BOARD**

Based on the petitioners' 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 Board finds that the subject property is a uniquely-shaped lot which has topography that is severely sloped. The Board finds that the size of the petitioners' lot is substandard for the R-200 Zone. The Board finds that these are exceptional circumstances that are peculiar to the subject property and that the strict application of the zoning regulations will 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 variances requested for the construction of an accessory structure/detached garage are 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 variances will not be detrimental to the use and enjoyment of the adjoining and neighboring properties.

Accordingly, the requested variances of nine and sixty-five hundredths (9.65) feet from the required sixty-five (65) foot established front building line and to permit the accessory structure/detached garage to be located in the side yard are granted subject to the following conditions:

1. The petitioners shall be bound by all of their 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(a) 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 David K. Perdue, seconded by Catherine G. Titus, with Walter S. Booth and Carolyn J. Shawaker, in agreement, and Allison Ishihara Fultz, Chair, in opposition, 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 19th day of December, 2008.

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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.

It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.