

**Resolution No. R-12-2021**

Adopted:

**A Resolution of the Mayor and Town Council of Kensington Approving a Variance to encroach three (3) feet into the ten (10) foot side yard setback for a dwelling on land zoned for single-family use at 10221 Montgomery Avenue.**

**WHEREAS**, an application for a below-grade addition has been filed by Bruce Caswell and Lauren Deichman, ("Applicants"), for certain real property located at 10221 Montgomery Avenue ("the Property"); and

**WHEREAS**, the purpose of the Variance is to allow for an entirely below-grade 1,016 square foot addition to the main house within the north side yard, as regulated within Section 5-104 of the Town Code; and

**WHEREAS**, the Town Council may grant a petition for a Variance after a hearing when the Council finds that:

1. There are specific situations or conditions that are peculiar to the property that makes it unique from neighboring properties, including, but not limited to: (i) shape (narrowness/shalowness); (ii) topography; (iii) historic significance; (iv) environmental features; or (v) other extraordinary conditions unique to that property. The conditions must result from the application of building or zoning standards and not from the action, inaction or the personal circumstances of the property owner or the owner's predecessor(s); and
2. The requested variance is the minimum necessary to overcome the unique condition of the property; and
3. The requested variance is not detrimental to neighboring properties or the community as a whole.

**WHEREAS**, the Mayor and Council, conducted a Public Hearing on the Variance request on June 14, 2021, at a public meeting, after due notice to the public and to the adjacent neighbors, and received testimony on the requested Variance. The Council closed the record following the Public Hearing.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the Town of Kensington, based on the testimony presented at the Public Hearing on June 14, 2021, and evidence submitted, adopts the following findings of fact and conclusions of law:

**Findings of Fact:**

1. Bruce Caswell and Lauren Deichman ("Applicants"), are the owners of 10221 Montgomery Avenue in Kensington, Maryland, which is zoned single family residential ("Property").
2. The original dwelling dates to at least 1898.
3. The Town's requirement for 10-foot side yard setbacks, which exceeds the County's was adopted well after this house was constructed.
4. The Property has an existing accessory structure ("Garage") that is located 0.3 feet beyond the north lot line. The Montgomery County Board of Appeals has approved relocating the existing garage to 0.69 feet inside the north lot line, which allowed for a 4.31-foot variance from the 5-foot setback requirement to proceed with modifying (raising the building height 16 inches) the existing garage.
5. The garage proposal also includes the installation of a subterranean car lift, which would allow a car to be lowered from the driveway level to basement level, maximizing the storage capacity of the garage to the dwelling unit.
6. The requested 3-foot side yard Variance would allow for a 9- to 10-foot-wide opening between the garage and addition to allow for vehicle storage.

**Conclusions of Law:**

1. Strict application of Town regulations would result in undue hardship due to the historic significance of the property and the Council's determination that the proposed below-grade addition would preserve the existing greenspace and setback requirement at grade.
2. The proposed Variance is the minimum necessary to overcome the unique condition of the Property to allow for the Applicant to maximize the garage.
3. The Variance can be granted without impairment of the intent, purpose, and integrity of this article.

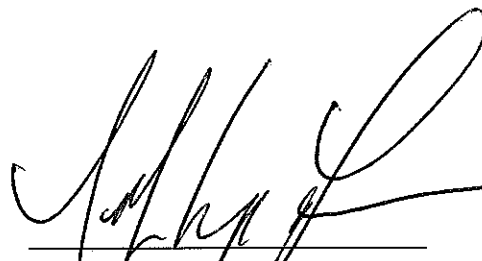
**BE IT FURTHER RESOLVED THAT** the additional below-grade 1,016 square foot garage at the Property at 10221 Montgomery Avenue be and it is hereby granted.

**ADOPTED** by the Town Council of Kensington, Maryland at the regular public meeting assembled on the 12th day of July, 2021.

**EFFECTIVE** the 12th day of July, 2021.

**ATTEST: TOWN OF KENSINGTON, MARYLAND**

By:   
Susan C. Engels, Clerk – Treasurer

  
Tracey C. Furman, Mayor