

Submitted September 10, 2016  
Approved September 10, 2016

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS  
MEETING NO. 02-2016  
Saturday, March 12, 2016**

The City of Rockville Board of Appeals convened in regular session in the Mayor and Council Chambers at 9:00 a.m., Saturday March 12, 2016.

**PRESENT**

Jeryl O. Gegan, Chair  
Peter Mork  
Steven Wilcox  
W. Thomas Curtis, Alternate

**Staff Present:** Jodi Schulz, Sr. Assistant City Attorney  
Jim Wasilak, AICP, Chief of Zoning  
Margaret Hall, Senior Planner

**I. PUBLIC HEARING**

**Variance VAR2015-00050**, Ethan Z. Simon and Sondra Katz, applicant, 1639 Martha Terrace – This item is a continuation from November 14, 2015, when the Board granted a continuance of four months with the option for an additional extension of two months. The applicant has reevaluated the proposal and has revised the application with the replacement of the shed roof on the carport with a gable roof. The property is located in the R-75, Single Unit Detached Dwelling, Residential Zone. Planner: Margaret Hall, (240) 314-8226.

Margaret Hall presented her staff report and answered questions from the Board.

Matthew McDonald, architect representing the property owner, presented the request for the variance. He stated that the revised packet submitted to staff reflected the expressed concerns that the Board had at their November 14, 2015 meeting.

The applicant engaged a structural engineer to determine that the support was sufficient for the carport and felt that there are peculiarities to the site including grading that support the variance findings.

Chair Gegan asked the applicant if they had met with staff to review the revised proposal. The applicant replied that they did not feel it was necessary to meet with staff if the Board's concerns had been addressed. Chair Gegan indicated that the direction from the Board for them to meet with staff was to explore alternatives, including ways to make the variance request smaller in size. The applicant stated that alternatives proved to be too cost prohibitive, and that cost was their main driver. Chair Gegan indicated that the main driver was the City Code.

Chair Gegan asked staff a clarifying question regarding the extent of the requested encroachment.

At the suggestion of Chair Gegan the applicant indicated that the hardship was that, without the variance, the applicant would not be able to have a carport.

Dr. Wilcox asked the applicant to explain why he felt that the proposal represents the necessary width for the carport. The applicant indicated that it is wide enough to open car doors on both sides, and that moving the structure one to two feet at a cost of \$13,000 seemed unnecessary.

Mr. Curtis asked staff if there was something in the Code that would allow a small roof covering the stairs and entry door without a variance. Staff answered that there were side yard encroachments allowed by the Code that would accommodate a smaller covered entryway.

The applicant then went over each of the required variance findings in support of the proposed application and addressed how the revised design met the direction provided by the Board at the November 14, 2015 meeting.

Dr. Wilcox asked about other similar variances or deviations in the neighborhood, and how many properties have carports on the side of the house. The applicant responded that there are 3 to 4 similar carports on the same street

Chair Gegan questioned the benefit of the carport when it could only accommodate one car at a time, or half the length of 2 cars parked back to back. The applicant indicated that the carport also provided coverage for the exterior stair of the house, as well as providing partial coverage for exiting the vehicle.

The public hearing was closed at 9:40 a.m. and the Board went into deliberation.

Dr. Mork went through each of the variance findings and had no issue with any of them except for the question of practical difficulty. Dr. Wilcox questioned the finding that the request for the variance is the result of conditions peculiar to the property and not the result of any action taken by the applicant, and felt that there wasn't room on the property for a carport.

Mr. Curtis felt that the applicant had done everything requested of them, and had satisfactorily answered all of his specific questions and concerns.

Chair Gegan questioned whether this structure even met the criteria of a carport since it provided only partial coverage. Chair Gegan further stated that he didn't feel that properties were entitled to a carport, and he didn't agree with the practical difficulty argument made by the applicant.

Dr. Wilcox initiated a discussion of the required variance findings and the Board deliberated on how the application did or did not meet each finding. There was considerable discussion of the purposes of the Zoning Ordinance, and staff walked through the "Purpose" section of Article 1 of the Zoning Ordinance.

*Dr. Mork moved, seconded by Dr. Wilcox, to approve Variance VAR2015-00050 at 1639 Martha Terrace, for the following reasons: 1) The variance is not contrary to the public interest because the negative externalities of the project have been mitigated by the revised design of the project; 2) The variance is owing to conditions peculiar to the property and not the result of any actions by the applicant in that the lot is smaller than the average lot in the neighborhood, that the constraints*

*imposed by the siting of the dwelling are significant and the steep slope of the property in the rear yard precludes construction of a carport anywhere else; 3) that a literal application of the ordinance will result in practical difficulty because the property is so small that the applicant would be unable to access the side door and cover all or part of a vehicle during inclement weather; and 4) that approval is not contrary to the purpose of the Zoning Ordinance in that the ordinance both promotes an inclusive community that includes the ability to age in place as well as enhances the aesthetics and residential character of the neighborhood. The motion passed 2-1, with Chair Gegan opposed.*

Staff suggested the inclusion of two conditions to the approval: that the applicant file an affidavit of sign posting; and, that the carport be constructed in conformance with the submitted design.

*Dr. Mork then moved, seconded by Dr. Wilcox, to include the conditions recommended by staff. The motion was approved 2-1, with Chair Gegan opposed.*

## **II. COMMISSION ITEMS**

### **A. OLD BUSINESS – None**

**B. NEW BUSINESS** – There was a discussion of Board membership and the upcoming expiration of terms; discussion of the due date for Financial Disclosure Statements; and, a discussion of the upcoming election of a Chair.

**C. MINUTES** – *There was a discussion of the minutes for the January 9, 2016 meeting. The draft minutes were not clear as to whether action was taken to reschedule the Board meetings from the second Saturday of the month to the first Saturday of the month. At the request of Mr. Curtis, action on the minutes was tabled pending resolution of the calendar discussion. The Board went back to Old Business to discuss the calendar schedule.*

**D. OLD BUSINESS** – Following a discussion of the revised meeting calendar, Dr. Mork moved that, starting with the May 2016 meeting, Board meetings will be scheduled for the 1<sup>st</sup> Saturday of the month except for July and September. Mr. Curtis suggested an amendment to state that for any first Saturday which occurs on a holiday weekend, the meeting that month would be held on the second Saturday. Dr. Mork agreed to the amendment, which was seconded by Dr. Wilcox. The motion passed 3-0.

**E. ADJOURNMENT** - There being no further business to come before the Board, the meeting was adjourned at 10:22 a.m.