

Submitted: November 5, 2016
Approved: November 5, 2016

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 04-2016
Saturday, September 10, 2016**

The City of Rockville Board of Appeals convened in regular session in the
Mayor and Council Chambers at 9:00 a.m.
Saturday, September 10, 2016

PRESENT

Jeryl O. Gegan, Chair
Peter Mork
W. Thomas Curtis

Staff Present: Jodi Schulz, Sr. Assistant City Attorney
Bobby Ray, AICP, Planning Supervisor
Nicole Walters, Senior Planner

Chair Gegan called the September 10, 2016 meeting of the Board of Appeals to order at 9:00 a.m. and after some procedural comments introduced the only action item on the agenda, a Public Hearing for:

I. PUBLIC HEARING

- A. Variance Application VAR2017-00002, Gareth Stonebraker, 309 Lawrence Drive**, for a variance of 3'-8" from the maximum encroachment permitted in order to retain a recently constructed entry vestibule and; a 3'-10" variance from the maximum permitted encroachment in order to maintain the existing uncovered steps. The property is zoned R-60 (Single Unit Detached Dwelling, Residential Zone).

Ms. Walters presented the staff report and the staff recommendation of denial.

Gareth Stonebraker, 309 Lawrence Drive, Rockville, the property owner and applicant presented the application to the Board.

Carlton Wainwright, 5219 Kenston Drive, Temple Hills, MD., a contractor worked with the property owner on the project but never informed the owner of the need for a building permit. New plans have been prepared and are ready to be submitted. The project is about 75% complete.

Mr. Curtis suggested a 90-day continuance.

Chair Gegan walked through his basis for supporting the variance application. In summary Chair Gegan stated that:

- The appearance of the construction is "great";
- The R-60 zone needs to be updated, the setbacks are unrealistic;

- The subject lot has some definite limitations;
- The cost of the work is relevant to the variance request; and,
- The improvements are good for the neighborhood

Dr. Mork agreed with Chair Gegan but couldn't make the findings of "public interest" or consistency with the Zoning Ordinance. He felt that the Code already made allowance for this type of encroachment, and if those allowances were not adequate that was a problem with the Code. He felt that a precedent was being set by allowing the encroachment to come closer to the public right-of-way.

Mr. Curtis agreed with Chair Gegan that it was a very positive addition to the neighborhood. However, since it was built without a permit the owner did take chances. He was also concerned with cost.

Mr. Curtis made a motion to grant a 3-month extension to allow the applicant to work with staff to revise the application and return to the Board by January 2017. Dr. Mork modified the motion to allow for an additional 2-month extension beyond January 2017 if needed. The modified motion was accepted by Mr. Curtis and seconded by Dr. Mork. The motion was approved by a 2-1 vote, with Chair Gegan opposed.

II. COMMISSION ITEMS

A. OLD BUSINESS

The Board discussed the October 17 work session with Mayor and Council. Mr. Curtis said that the Board's procedures need to be in line with State Law regarding members and alternate members. The next person appointed is going to be a full member.

B. NEW BUSINESS: Election of a new Board Chair

Dr. Mork moved, seconded by Mr. Gegan, to elect Mr. Curtis as the new Chair. The motion passed unanimously.

There was discussion of Air BNBs and how the City regulates them.

C. MINUTES:

Mr. Curtis moved, seconded by Dr. Mork, to approve the minutes of the January 9, 2016 meeting minutes, as amended during the discussion. The motion passed unanimously.

Dr. Mork moved, seconded by Mr. Curtis, to approve the minutes of the March 12, 2016 meeting minutes, as amended during the discussion. The motion passed unanimously.

Mr. Curtis moved, seconded by Dr. Mork, to approve the July 9, 2016 Executive Session minutes as submitted. The motion passed unanimously.

D. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 10:06 a.m.

The following is a summary of the Executive Session held on Saturday, July 9, 2016:

- A. Convene in Open Session to vote on motion to go into Executive Session pursuant to Section 3-305(b)(7) of the General Provisions Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding Board composition and number.

Executive Session Meeting Summary

On July 9, 2016, the Board of Appeals convened in Open Session to vote on a motion to convene in Executive Session.

Upon motion by Dr. Mork, seconded by Dr. Wilcox and unanimously passed, the Board of Appeals convened in Executive Session at 9:05 a.m. pursuant to Section 3-305(b)(7) of the General Provisions Article of the Annotated Code of Maryland to obtain legal advice regarding the composition and number of Board members and / or alternate members.

Present at the Executive Session were: Jeryl O. Gegan, Chair; Peter Mork, Board member; Steven Wilcox, Board member; W. Thomas Curtis, Alternate member; Cynthia Walters, Deputy City Attorney; Jodi Schulz, Senior Assistant City Attorney; Jim Wasilak, Chief of Zoning; Bobby Ray, Planning Supervisor

The topic of discussion was the Board's Rules of Procedure with regards to the number of Board Members, and the role of Alternate Board Members.

No actions were taken during this Executive Session.

Action: to adjourn.

The Executive Session adjourned at 9:55 a.m.