

Submitted: May 13, 2021

Approved: May 13, 2021

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS  
MEETING NO. 03-2021  
Thursday, April 8, 2021**

The City of Rockville Board of Appeals convened in open session in the Mayor and Council Chambers at 7:00 p.m. on Thursday, April 8, 2020 via Webex Virtual Meeting

**PRESENT**

Alan Frankle, Chair

Roy Deitchman

Jimmy Hauer

Nicolas Kutchak, Alternate

**Staff Present:** Nicholas Dumais, Assistant City Attorney  
Jim Wasilak, Zoning Manager  
Deane Mellander, Staff Liaison  
John Foreman, Development Services Manager  
Shaun Ryan, Principal Planner

**I. CONVENE IN OPEN SESSION**

The meeting was convened at 7:00 p.m. and began with staff introductions. The Chair provided information and protocols for participants in this virtual meeting.

**II. PUBLIC HEARINGS**

- A. Variance Application VAR2021-00090: Jintae Lee** – The applicant requests a zoning variance of 8 feet from the rear yard setback standard of 20 feet to build a rear family room addition. The property is located at 7 Henley Court in the PD-RS (Planned Development - Rockshire) Zone. Planner: Jim Wasilak.

Mr. Wasilak presented the staff report. The staff has recommended approval of the application. Mr. Deitchman asked whether the garage complied with the code. Mr. Wasilak noted that the garage may have originally been a carport, which at one time was allowed to encroach. Mr. Deitchman also asked if the proposed addition would affect the slope area in the rear yard, possibly affecting drainage. Mr. Wasilak indicated he did not believe the addition would extend that far.

The Chair then asked the applicant to make a presentation. Mr. Lee said that the addition will not encroach on the slope area. He also indicated that most of the neighbors and the Rockshire Homeowner's Association support the application. Mr. Deitchman asked whether Mr. Lee had considered extending the house on either end, not requiring a variance. Mr. Lee responded that the west end was the split-level portion of the house and it would require major reconstruction to place the addition there. On the east end, it might be possible to convert the existing garage to

living space but adding a new garage would then require a side yard variance. In addition, it is likely that the HOA would not approve this extension.

Michael Geiger, who lives at 5 Henley Court, spoke in opposition to the application. He stated that the form he and his wife signed from the HOA was intended only as notice of the application, not support. He believes that the addition will be visible from Henley Court and that the applicant should have known at the time of purchase that the house would be too small for his needs. Enlarging this house is out of character with the surrounding neighborhood.

The Board then entered into discussion. Mr. Frankle noted that corner lots in the city are a unique case with two front yards which often means a very tight rear yard. Mr. Hauer moved to approve the variance application. Mr. Deitchman seconded, with the added proviso to include the conditions of approval set forth in the staff report be incorporated in the motion. The motion was passed by a vote of 3 to 0.

- B. Variance Application VAR2021-00091: Lenard Pedowitz and Nancy Bentz** – The applicant requests a variance of 6 feet from the side yard setback of 9 feet to install an emergency generator in the side yard. The property is located at 12 Forest Avenue in the R-90 (Single Unit Detached Residential) and HD (Historic District Overlay) zones. Planner: Shaun Ryan.

Mr. Ryan made the staff presentation with a recommendation of approval. Mr. Hauer asked whether the unit could be placed closer to the house. Mr. Ryan deferred to the applicant.

The applicant, Mr. Pedowitz, answered the placement question by noting that the generator does emit fumes from the gas-powered motor and that the unit should be placed at least five feet from the house to mitigate against fumes leaking into the house. Mr. Deitchman asked whether the unit was sized only for the sump pump, or to power the entire house. Mr. Pedowitz said that it was about half-way. It is large enough to run the sump pump, the refrigerators, and the first-floor heating. Mr. Frankle asked whether the unit could be placed elsewhere on the lot where no variance would be needed. The applicant noted that the utility connections were located where the existing units are and that a location in the rear yard would require extensive trenching to make connections and would be closer to other neighbors. Mr. Frankle indicated he saw no reason not to grant the variance and moved approval for the reasons and conditions set forth in the staff report. Mr. Deitchman seconded the motion, and the motion passed 3-0.

- C. Variance Application VAR2021-00092: Patrick Elam, Elam Contracting**, for a variance of 9 feet from the rear yard setback requirement of 20 feet to install a 24 foot by 12 foot covered and screened porch. The property is located at 1829 Greenplace Terrace in the pd-FM (Planned Development – Fallsmead) Zone. Planner: Jim Wasilak.

Chair Frankle announced his recusal to participate in this item due to his friendship with the applicant. On advice from counsel, he remained as the presiding officer with no participation in the substance of the application. Alternate member Kutchak was a voting member for this matter. Mr. Wasilak made the staff presentation with a recommendation for approval. The applicant proposes to enclose a portion of an existing rear yard deck with a screened porch. The deck extends nine feet into the rear yard setback in accordance with code. Following a presentation by the applicant, Mr. Deitchman asked about the plantings shown in one of the photos from the staff report. The applicant noted that the photo was taken some time ago and the tree shown was diseased and removed. The balance of the plantings is on the property and will remain. Mr.

Kutchak asked about the how the porch roof will blend in. The applicant stated that it will match the existing roof. Mr. Kutchak moved to approve the application for the reasons and conditions set forth in the staff report. Mr. Deitchman asked that a third condition be added to retain the existing planting along the edge of the property. The amendment was accepted. Mr. Hauer seconded the motion and it passed by a vote of 3 – 0.

### **III. COMMISSION ITEMS**

There was no old or new business.

**MINUTES** – The Chair presented the draft minutes from the February 11, 2021 meeting. Mr. Deitchman moved approval of the draft minutes and Mr. Hauer seconded the motion. The minutes were approved by a vote of 3 - 0.

The meeting was adjourned at 8:31 p.m.