

Submitted: September 13, 2023

Approved: October 18, 2023

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 4-2023
Wednesday, April 19, 2023**

The City of Rockville Board of Appeals convened
virtually via WebEx and in person at City Hall at 7:00 p.m.
Wednesday, April 19, 2023

PRESENT

Alan Frankle, Chair

Jimmy Hauer

Nicholas Kutchak, Alternate

Absent: Roy Deitchman

Staff: Jim Wasilak, Chief of Zoning
Nick Dumais, Senior Assistant City Attorney
Nelson Ortiz, Principal Planner

Chair Frankle convened the hybrid meeting at 7:00 p.m. and began with Board and staff introductions. He noted that the meeting is hybrid, and that the Board has adopted rules for the conduct of online meetings.

I. REVIEW AND ACTION

A. Modification of Approved Variance Application VAR2022-00104, Dr. Ira Fisch: to allow additional height up to 19.5 feet and additional floor area of 43 square feet to the accessory building previously approved at 8310 Hectic Hill Lane in the R-150 Zone.

Mr. Wasilak swore in Principal Planner Nelson Ortiz, who affirmed that he would testify truthfully. Mr. Nelson presented the staff recommendation, which is for approval of the requested modification. He noted that the Board had previously approved variances for the project: a variance that accessory buildings be located in the rear yard, and a variance to exceed the limitation of 500 square feet. On August 3, 2022, the Board granted both variances, including a variance of 544 square feet to allow construction of an accessory building containing 1,044 square feet of floor area. He further explained that the Mayor and Council adopted a zoning text amendment that increased the maximum floor area for an accessory building to 750 square feet, as well as increased the maximum potential height of an accessory building to 20 feet.

Mr. Ortiz explained that the applicant proposes to increase the footprint of the structure to 951 square feet from 908 square feet, and to change the proposed height from 12ft, 7.5 inches to 19 ft, 9 inches. The Board's Rules of Procedure allow for such proposed

changes as a modification to the approved variance.

Staff recommended approval of the modification to the approved variance, subject to the conditions of approval from the prior action.

Chair Frankle disclosed that Dr. Fisch is his orthopedic surgeon and that they do not discuss his property, and that he can participate in the decision in a fair and impartial manner. No members of the Board or public raised an objection.

Chair Frankle asked why the change of exterior material added to the footprint of the building, and Mr. Ortiz responded that the change to brick on the exterior walls increased the overall dimensions of the building, and therefore the building's footprint. Chair Frankle asked if the applicant had applied for the accessory building under the current standard, that a variance would not be required. Mr. Ortiz confirmed this.

Mr. Hauer asked why the basement increase caused the need for the variance and Mr. Ortiz responded that the change in dimension was added to the foundation. Mr. Hauer also asked if the proposed structure still met setback requirements, given the added height, and Mr. Ortiz responded that it did.

Mr. Wasilak swore in Dr. Ira Fisch, applicant, who stated that he intended to provide truthfully testimony. He explained the situation and the proposed changes. He also explained that they would like to modify the location of the building by ten feet. Mr. Wasilak advised the Board that they could consider the proposed change in location as being similar to the other proposed changes, in that it would not change the findings but represents a change in the plans. This change could be considered by the Board at tonight's meeting so it is documented.

Mr. Kutchak asked about the setback resulting from the change, and Dr. Fisch noted that there would still be at least 200 feet of setback.

Mr. Wasilak noted for the Board that no one was online to speak either in favor or in opposition to the variance, and Chair Frankle noted that no one was present to address the Board. The Chair closed the public hearing.

Chair Frankle stated that he thought the granting of the initial variance was quite easy, and that the proposed changes are minor in nature, and should be approved. He also supported the request to relocate the pool house. Mr. Hauer and Mr. Kutchak agreed with what was said by Chair Frankle.

Chair Farnkle moved, seconded by Mr. Hauer, to approve the requested modifications to approved Variance Application VAR2022-00104, based on the reasons set forth in the staff report and including the ability to move the location of the pool house by up to 15 feet as described by the applicant, and subject to the conditions of approval recommended by staff. The motion passed by a vote of 3-0.

II. COMMISSION ITEMS

A. MINUTES – Meeting No. 03-2023, March 9, 2023. Mr. Hauer moved, seconded by Mr. Kutchak, to approve the minutes of Meeting No. 03-23 of March 9, 2023. The motion passed unanimously.

B. OLD BUSINESS – Chair Frankle asked if the change in the meeting date has been included in the Board's Rules of Procedure, and Mr. Wasilak answered that it has not been, given the requirement to publish such changes in advance.

Chair Frankle noted that the Board would like to present its report to the Mayor and Council during the term of the current Mayor and Council.

C. NEW BUSINESS – None.

D. ADJOURN

There being no further business to come before the Board of Appeals, Mr. Hauer moved, seconded by Mr. Kutchak, that the meeting be adjourned at 7:39 p.m. The motion was approved 3-0.