

Submitted: July 11, 2019

Approved: July 11, 2019

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 02-2019
Saturday, May 4, 2019**

The City of Rockville Board of Appeals convened in open session in the Mayor and Council Chambers at 9:00 a.m. on Saturday, May 4, 2019

PRESENT

Alan Frankle, Chair

Scott Maravilla

Roy Deitchman

Nicholas Kutchak, Alternate

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

I. CONVENE IN OPEN SESSION

The meeting was convened at 9:00 a.m. and began with staff introductions.

II. PUBLIC HEARING

- A. [Variance Application VAR2019-00075, 201 South Washington Street](#), A variance request to allow a proposed addition to project into the side yard setback and the established front yard setback. The property is zoned R-90 (Single Unit Detached Dwelling, Restricted Residential Zone). Planner: Margaret Hall, 240-314-8226.

Chair Frankle announced that a written request for continuance was received by the Board on May 2, 2019, two days prior to the hearing. At the request of the Chair, the applicants, Mei Liu and Kirk Gross, of 201 South Washington Street, came forward and made a verbal request for continuance of the hearing. The request was made to allow more time to address issues raised by neighbors and staff, prior to any action on the request.

The Board asked procedural questions of staff regarding the timing of the staff report. Chair Frankle commented on the lack of direction provided by the Board of Appeal's Rules and Procedures with regards to requests for continuance. He provided background on the research he had done with regards to continuance requests.

Having found no other relevant standard for granting continuances, Chair Frankle proposed that the standard to be used in reviewing this continuance would be the same standard as set forth in the Maryland Rules of Civil Procedure, Rules 2-508(a) and 3-508(a), being "as justice may require." Chair Frankle sought and received consent of the use of this standard from the applicant, as well as from the

Members of the Board of Appeals and the Board's legal counsel, each of whom agreed that this was an appropriate standard.

In response to questions from the Board the applicants indicated that when they initially approached their neighbors about the project they didn't have any finalized architectural design to present.

Ms. Schulz reminded the Board that they could take public testimony at today's hearing, however based on the reasons for the requested continuance, it is likely that the project will change before being brought back to the Board. Mr. Maravilla made the following motion:

Continue the matter indefinitely and also not take testimony at this time.

Mr. Deitchman asked if a time limit of one year should be included in the motion, in case there was some information that might become dated before that time.

Staff indicated that Section 25.07.02.f of the Zoning Ordinance requires that an application be active, either through submission of revised plans or response to staff comments, or it can be withdrawn for lack of activity. In response to Mr. Deitchman's question the applicant would need to demonstrate some activity within a 6-month period in order to keep the application active.

Mr. Maravilla withdrew his original motion, and offered the following revised motion:

Grant the continuance up to 6-months, and to not hear testimony at this time.

The motion was seconded by Mr. Deitchman.

Chair Frankle asked, prior to the vote, if all those in attendance could come forward and indicate if they wanted to provide testimony today, or if they were willing to wait until the item came back before the Board.

- Mr. Brian Shipley, 211 South Washington Street, indicated that he had no objection to waiting.
- Ms. Noreen Bryan, 207 South Washington Street, indicated that she had no objection to waiting.

The motion was then put to a vote and was unanimously approved 3-0.

III. COMMISSION ITEMS

A. OLD BUSINESS

Chair Frankle discussed the proposed Sign Ordinance and informed the Board that he appeared before the Planning Commission to express the Board's concerns. Additionally, he informed the Board that the Mayor and Council public hearing on the Sign Ordinance was scheduled for May 13, 2019 if any of the Board members wanted to attend. Mr. Deitchman indicated that he would be out of town on that date. Mr. Wasilak expressed thanks to Chair Frankle for attending the Planning Commission meeting and providing testimony.

B. NEW BUSINESS:

Ms. Schulz suggested that the Board look at their Rules and Procedures for possible amendment, particularly the process for continuances and withdrawal of applications. Chair Frankle asked that copies of the Rules be made available to all members of the Board, including the alternate member. Chair Frankle suggested that an item be placed on the September meeting agenda to allow the Board the opportunity to go over the rules. Ms. Schulz stated that further discussion was needed to determine if the review of the rules should be conducted in closed or open session.

C. MINUTES

Mr. Deitchman moved, seconded by Mr. Maravilla, to approve the March 7, 2019 regular session minutes. The motion passed 3-0.

D. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 9:38 a.m.