

Submitted: September 1, 2022

Approved: September 8, 2022

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 07-2022
Wednesday, August 3, 2022**

The City of Rockville Board of Appeals convened in regular session at Rockville City Hall and virtually via WebEx at 7:00 p.m.
Wednesday, August 3, 2022

PRESENT

Alan Frankle, Chair
Roy Deitchman
Jimmy Hauer

Absent: Nicholas Kutschak, Alternate

Staff Present: Jim Wasilak, Chief of Zoning
John Foreman, Development Services Manager
Sachin Kalbag, Principal Planner
Nelson Ortiz, Principal Planner
Christopher Davis, Senior Planner

Chair Frankle convened the hybrid meeting at 7:15 p.m. and began with Board and staff introductions. The Chair and Mr. Hauer are participating virtually while Mr. Deitchman is participating in the Mayor and Council chamber. He noted that the meeting is being held as a result of the Board having to cancel the previous meeting. The Chair provided information and protocols for participants in this hybrid meeting. He noted that applicants appearing on the agenda have waived their right to an in-person meeting with the Board.

I. REVIEW AND ACTION

- A. Variance Application VAR2022-00103, Praful Patel, Arenco LLC:** For a variance from the rear setback requirements of the R-90 Zone in order to construct a new one-story rear addition at 4 Echo Court.

Chair Frankle disclosed that although he knows the father of the property owner Ms. Stillman, he has not had any recent interaction with him and feels that there is no need to recuse himself from hearing the application.

Christopher Davis presented the staff report and recommendation, which is for approval, subject to conditions. He outlined how the application met the criteria for the variance. He noted that the setbacks are based on the standards of the Variable Lot Size subdivision.

Mr. Hauer asked about the existing dwelling that already encroaches into the setback.

Mr. Davis responded that the house was constructed with the encroachment, and that the zoning standards may have changed since that time. Mr. Deitchman asked if there were any other similar variances in the neighborhood, and Mr. Davis responded that there are not similar variances in the vicinity but that the Board had approved similar variances within the last two years. Chair Frankle noted that the staff report indicates that the house was constructed in 1974 before the adoption of the current Zoning Ordinance.

Debra Stillman, property owner, addressed the Board in support of the application. Mr. Deitchman asked Ms. Stillman if there was any other location for the addition that would not require a variance. Ms. Stillman responded that the only other location would have precluded an egress window from the basement. Mr. Deitchman also asked why the size of the space is as proposed, to which was the response that the kitchen needed to be opened up to accommodate a wheelchair. A final question related to the fence line, and the response was that the fence on the subject property, and the neighbors' high shrubs will provide screening.

Mr. Wasilak confirmed that no one was present online or on the phone to address the variance, and no one was present in the Mayor and Council chamber to address the variance.

Chair Frankle outlined his reasons for supporting the variance, including the existing encroachment, the odd shape of the property and that the encroachment will not extend beyond the existing building wall.

Mr. Hauer moved, seconded by Mr. Deitchman, to grant Variance Application VAR2022-00103, based on the recommended findings and in accordance with the recommended conditions noted in the staff report. The motion passed by a vote of 3-0.

B. Special Exception Application SPX2022-00402, Joshua Schroeder – for an accessory apartment of approximately 450 square feet within the existing single-family dwelling in the R-60 Zone at 1117 Highwood Road.

Nelson Ortiz presented the staff report and recommendation, which is for approval, subject to conditions and compliance with the required standards.

Mr. Deitchman asked if a Special Exception for an accessory apartment expires when a property is sold, which is the case. Chair Frankle asked about attendance at area meetings and the Planning Commission meeting, and Mr. Ortiz replied that no one attended the meetings.

Joshua Schroeder, applicant, addressed the Board in support of the application, noting that they had to terminate the lease of the occupants of the accessory apartment. He also spoke with neighbors, who did not have a concern about the apartment,

Mr. Deitchman asked about parking onsite, and Mr. Schroeder replied that it is possible for two cars to park adjacent, so there would be two spaces on the driveway for the owners in addition to the garage and two spaces reserved for the apartment.

Mr. Wasilak confirmed that no member of the public was online or on the phone to address the Board, and the Chair noted that no one was present in the chamber.

Mr. Deitchman moved, seconded by Mr. Hauer, to grant Special Exception Application SPX2022-00402, based on the recommended findings and conditions noted in the staff report. The motion passed by a vote of 3-0.

C. Variance Application VAR2022-00104, Dr. Ira Fisch – a variance from the gross floor area requirements for an accessory building in order to construct a 2,003 square foot accessory pool house building, at 8301 Hectic Hill Lane in the R-150 Zone.

Chair Frankle disclosed that Dr. Fisch is his orthopedic surgeon, but he felt that he did not need to recuse himself from considering the application. No objections were noted.

Sachin Kalbag presented the staff report and recommendation, which is for approval, subject to conditions and findings included.

Chair Frankle stated that he recalled that this is one of the largest single family lot in Rockville. He noted that the significant change from the prior approval is the additional of a full basement.

Chair Frankle noted the unique configuration of the property, with the existing accessory building located in the front yard.

Jody Kline of the law firm of Miller, Miller & Canby, spoke on behalf of the applicants. He noted that the impact of the proposed structure is similar to the previous approval because half of the floor area is in the basement, is well-screened from Wootton Parkway and is a large lot.

Dr. Ira Fisch addressed the Board in support of his application. He described one of the problems with the property is the separation between the pool house and the residence. The additional square footage will be used for storage.

Mr. Deitchman asked if cooking facilities could be located in the pool house, and Mr. Wasilak responded that cooking facilities could exist while the main residence is being constructed, although the City may modify the ordinance to allow such arrangements as accessory dwelling units. Mr. Kline clarified that there is no intention to use the poolhouse as an accessory dwelling unit, as a covenant exists on the property that does not allow for further subdivision of lots below two acres.

Mr. Hauer asked if Dr. Fisch had communicated with his neighbors, and Dr. Fisch responded that his immediate neighbor is supportive.

Chair Frankle asked for any member of the public in the chamber to address the Board, and no one came forward. Mr. Wasilak added that no one is online or on the phone to address the Board on this application.

Mr. Hauer moved, seconded by Mr. Deitchman, to grant Variance Application VAR2022-00104, based on the recommended findings and conditions noted in the staff report. The motion passed by a vote of 3-0.

II. COMMISSION ITEMS

A. MINUTES – Meeting No. 5-2022, June 9, 2022. Chair Frankle moved, seconded by Mr. Hauer, to approve the draft minutes for Meeting No. 5-2022. The motion carried 3-0.

B. OLD BUSINESS – None.

C. NEW BUSINESS – Mr. Deitchman noted that he was reappointed to the Board.

D. ADJOURN

Mr. Wasilak stated that there would be a Board meeting in September, and that there were two variance applications expected to be on the agenda, including the last variance from the July meeting that was cancelled. That applicant was unavailable for tonight's meeting.

Chair Frankle thanked everyone for supporting this special meeting, enabling the Board to expeditiously review applications that were scheduled for the July meeting that was cancelled.

There being no further business to come before the Board of Appeals, Mr. Deitchman moved, seconded by Mr. Hauer, that the meeting be adjourned at 8:27 p.m. The motion was approved 3-0.