

Submitted: October 11, 2023

Approved: October 18, 2023

**MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 7-2023
Wednesday, September 20, 2023**

The City of Rockville Board of Appeals convened
virtually via WebEx and in person at City Hall at 7:00 p.m.
Wednesday, September 20, 2023

PRESENT

Alan Frankle, Chair
Roy Deitchman

Absent: Jimmy Hauer
Nicholas Kutchak, Alternate

Staff: Jim Wasilak, Chief of Zoning
Nick Dumais, Senior Assistant City Attorney
Jenny Snapp, Deputy Director
Kimia Zolfagharian, Principal Planner

Chair Frankle, attending the meeting virtually, convened the meeting at 7:00 p.m. and welcomed Mr. Deitchman and staff to the meeting. He noted that the Board has adopted rules for the conduct of online meetings.

Mr. Wasilak introduced Ms. Zolfagharian to the Board, being her first meeting.

I. REVIEW AND ACTION

A. Variance Application VAR2024-00114, Isidro Granados: for a variance of one foot from the side yard setback requirement of eight feet to allow for construction of a second story addition at 907 First Street in the R-60 Zone.

Mr. Wasilak swore in Principal Planner Kimia Zolfagharian, who affirmed that she would testify truthfully. Mr. Deitchman reminded everyone that only two members of the Board were present, as it is the practice of the Board to make applicants aware of this fact.

Ms. Zolfagharian presented the staff recommendation, which is for approval of the application. She explained how the application met all of the criteria for the granting of the variance.

Mr. Deitchman asked, since the addition has already been built, which is the timeline associated with it. Ms. Zolfagharian responded that the building permit was reviewed and approved, and the application for alternative compliance from the East Rockville Design Guidelines was approved in July 2023. Chair Frankle noted that the timeline was

explained in the staff report, as the permit was issued and construction begun prior to the realization that the addition did not meet the setback requirements. He further stated that the setback requirement was seven feet when the house was built, and that the current requirement is eight feet, rendering the building nonconforming.

Chair Frankle asked if Mr. Granados had prepared the application, and Mr. Granados responded that the architect had put the application together. The Chair asked if the City had an authorization from the applicant on file to permit the architect to file the application. Mr. Dumais asked for clarification on what signature is being questioned. Chair Frankle asked that he thought that the property owner would have to authorize the applicant to file the application. Mr. Wasilak responded that a Letter of Authorization is needed when the applicant is different than the property owner. Mr. Dumais advised the Chair to ask questions of the property owner to determine if he understood the nature of the application.

Chair Frankle asked the translator if there is any relationship between the translator and the applicant, and he responded that there was not.

Mr. Wasilak swore in Isidro Granados, applicant, who responded via the translator that he intended to provide truthful testimony. Mr. Wasilak swore in translator Edward Incarnacion, who stated that his translation would be a truthful representation of the statements of Mr. Granados.

Chair Frankle asked if Mr. Granados had read the application and understood it, and he responded via the translator that he understood very little. Chair Frankle asked Mr. Granados if he understood that there must be eight feet between the house and the property line, and he responded via the translator that he understood. Chair Frankle told Mr. Granados that he has done nothing wrong, but that he needs the variance to allow the addition to remain.

Mr. Deitchman asked staff if the accessory building on the property had any issues with setbacks, and Ms. Zolfagharian replied that it did not. Mr. Deitchman asked if the electrical connection that exists would be made permanent, and Mr. Incarnacion responded that it would be.

Mr. Wasilak confirmed for the Chair that there was no one online or in the Chamber that wished to testify in favor or in opposition to the application. Chair Frankle closed the public hearing.

Chair Frankle stated that he had no issue with the substance of the variance application, but that he did have concerns about the procedure of the variance, and remained unconvinced that the applicant understood the variance request. He suggested that the application should be tabled, and asked Mr. Deitchman for his thoughts. Mr. Deitchman answered that there may be other applicants who don't understand fully the variance application process, and given the circumstances, that the decision should not be delayed.

Mr. Deitchman moved, seconded by Chair Frankle, to approve Variance Application VAR2024-00114, based on the findings set forth in the staff report and subject to the conditions of approval recommended by staff. The motion passed by a vote of 2-0. The Chair thanked the applicant and participants in the hearing.

Chair Frankle indicated to staff that there should be an affirmation that the applicant has read and understands the contents of the application, and that they certify that they have read what is in the application.

II. COMMISSION ITEMS

A. MINUTES – Meeting No. 05-2023, May 19, 2023. Mr. Deitchman moved, seconded by Chair Frankle, to approve the minutes as drafted, with corrections made by Mr. Deitchman. The Board deferred approval of the April 17 and July 19, 2023 minutes until the next meeting when the Board members who were at those meetings are present.

B. OLD BUSINESS – Mr. Wasilak informed the Board that a date to present the Board's Annual Report was not obtained, and that the report would be presented to the new Mayor and Council. He also noted that there is an agenda item for the October meeting.

C. NEW BUSINESS – New Member Training and Orientation Materials – Mr. Wasilak suggested that the Board could discuss the document this evening or could discuss at a later date after staff review. Updates are needed, as the document dates from 2004. Chair Frankle asked staff to review and bring back as Old Business at the next meeting. Mr. Wasilak stated that it would come back at the next meeting.

D. ADJOURN

There being no further business to come before the Board of Appeals, Chair Frankle moved, seconded by Mr. Deitchman, that the meeting be adjourned at 7:39 p.m. The motion was approved 2-0, with Mr. Hauer absent.