

LAYTONSVILLE BOARD OF APPEALS

MEETING MINUTES

January 11, 2021 – 7:30 p.m.

Roll Call

A meeting of the Laytonsville Board of Appeals was called to order by Chair Cecere at 7:34 p.m. Board Members Foster, Kerns, Ols, and Ryan were present.

Minutes

The minutes for the Board of Appeals Meeting of December 7, 2020, were submitted for approval. Chair Cecere asked for a motion to accept the minutes. Member Foster seconded the motion to approve the minutes. Motion passed unanimously.

Guests

Mayor James Ruspi
Town Council Member Amy Koval
Ms. Victoria Shearer, Town Attorney
Mr. Ahmad Bagheri
Ms. Trupti Brahmbhatt and Mr. Lewis Brown
Mr. Sarantos and Mrs. Jennifer Georgopoulos
Mr. John and Mrs. Heidi Mantzouranis
Mr. Kevin Gutowski
Mr. Giovanni Domally
Mr. Chris Schiavone
Mr. Charles Hendricks, Chair, Laytonsville Historic District Commission
Ms. Joy Jackson, Assistant Clerk, Laytonsville Town Hall

Old Business

Variance number V-02-20 submitted by Mr. Ahmad Bagheri (7010 Cracklin Court, Laytonsville, MD). Mr. Bagheri is requesting a reduction in side setback to construct an elevated deck and addition with storage at basement level.

New Business

None.

Continuation of Hearing

Chair Cecere provided background information concerning the continuation of the Hearing initially conducted on December 7, 2020. He stated that Mr. Bagheri resubmitted plat, site plans and photos. The plat and site plans were entered into the record as Bagheri Exhibit 5 and the photos were entered as Bagheri Exhibit 6. Chair Cecere also said that discussions were held with the Laytonsville Town Attorney, Ms. Victoria Shearer, regarding the timeline and process involved in obtaining Home Owners' Association (HOA) approval. Ms. Shearer confirmed that the Board of Appeals could continue with the meeting regarding Mr. Bagheri's variance application since the HOA's approval was not necessary for the Board to review the case. However, this action did not preclude the HOA from having its own process and procedures and proceeding with its own conclusions.

Mr. Kevin Gutowski, Vice President of the HOA, asked for clarification as to whether the meeting or the decision of the Board would be an indication that the HOA's approval was no longer necessary. Chair Cecere responded that the decision of the Board should not interfere with the HOA following their own process and procedures as outlined in their guidelines.

Chair Cecere reminded all those present that they were still under oath when providing testimony and that the same procedures as with the previous hearing were in effect. He also informed the meeting attendants that the Board had received letters regarding the variance from Mr. Georgopoulos and Mr. Brown and Ms. Brahmhatt.

Chair Cecere requested Mr. Bagheri to present his application indicating the new information attached. Chair Cecere noted that Exhibit 5, site plans and plat drawings, showed a reduction in the size of the enclosed addition to the front of the house.

Mr. Bagheri acknowledged that he had downsized the enclosed addition due to the feedback and concerns expressed by his neighbors at the last meeting.

Chair Cecere noted that the change in the size of the enclosed addition resulted in a setback of 15 feet, 2 inches from the property line, which would indicate that a variance for the enclosed addition was no longer necessary. However, the staircase and deck would still need a variance.

Mr. Bagheri confirmed that the original size of the enclosed addition was 22 feet by 23 feet and that he had reduced the size to 20 feet by 20 feet. He also indicated his concern at what he perceived as unjust treatment regarding his application. He felt that many of the questions and comments made to him by his neighbors were too personal as to his reasons for needing an office and suspicions regarding his intentions. Mr. Bagheri felt that he had been supportive of his neighbors even when he did not appreciate the changes or the negative impact caused to his property. Mr. Bagheri said that he respected his neighbors and requested that the meeting continue to be focused on his project and not on personal issues.

Chair Cecere interjected that these types of matters could be emotional when discussing changes to property, neighborhoods, and houses in which people had invested so much. He was not under the impression that anyone had been intentionally disrespectful or culturally insensitive.

Member Foster stated that in reviewing the documents, a lot of attention was given to the proposed second driveway and sought agreement that the Board was not addressing that issue.

Chair Cecere confirmed that the Board was not considering the second driveway nor the enclosed addition to the house at this point since it was within the 15 foot setback from the property line. The driveway would be a matter for the HOA or other entities to consider.

Chair Cecere requested confirmation from Mr. Bagheri that the latest drawings included in the updated application showed that the corner of the deck was 13 feet, 9 inches from the property line and that the corner of the stairway was 13 feet, 8 inches from the property line.

Mr. Bagheri confirmed that this was correct.

Member Foster also asked confirmation that at this point, the Board was only talking about the deck and stairway.

Ms. Shearer requested clarification from Mr. Bagheri regarding the attachments to the application. She noted that since October, there had been several different measurements submitted regarding the setback from the property line for the enclosed addition, the deck, and the stairway. Ms. Shearer asked for the record if these latest drawings and measurements were the amendments to the original application. If they are, then Chair Cecere is correct that a variance is not needed for the enclosed addition to the house.

Mr. Bagheri confirmed that the latest measurements submitted on Friday were the right measurements and the amendments to the original application.

Member Kerns noted that Mr. Bagheri was able to successfully modify the enclosed addition to keep within the required zoning setback. However, while some modifications had been made to the deck and stairway, the encroachment to the property line had not been reduced enough to meet the 15 foot setback. He stated that the Board was considering whether or not there was a compelling reason for a variance or whether the configuration of the property was so different from other properties. He indicated that perhaps a redesign be considered to reduce the encroachment on the setback requirement with small changes to the stairway and the corner of the deck. Member Kerns asked for a compelling reason as to why the setback on the deck could not be reduced to the 15 foot limit.

Mr. Bagheri replied that picture number 5 showed the design of the house and that there are various problems with the land including varying bumps.

Chair Cecere asked if Mr. Bagheri had talked to the designer regarding what changes could be made to the deck as well as the stairway in order to maintain the 15 foot setback.

Mr. Bagheri indicated that he had checked with other professionals regarding possible solutions but some proposals would have been worse than the current design due to property issues.

A discussion followed regarding proposals as to placement of stairway and size of walkway. Mr. Bagheri said that he could try to reduce the corner of the walkway and if this resulted in only 1.5 inches from the property line, would that not suffice.

Chair Cecere responded to Mr. Bagheri that the requirements are set so that we can all enjoy our properties without encroaching on others. Everyone is subject to the same requirements, which is why it is difficult to get a variance because if we start giving concessions, we have to do it for all which would result in setting precedents that would weaken the zoning regulations.

Mr. Bagheri stated that he understood and wanted to work with the Board. He informed the hearing that if he were to make changes, all corners of the patio would have to match; he could not initiate one change without it affecting others parts. One solution to the problem would be to change the size of the deck

Member Foster summarized and noted that if Mr. Bagheri brought the project within the limitations, there were no setback issues.

Chair Cecere confirmed that if Mr. Bagheri made the necessary changes to stay within the required setback, there was no need for a variance.

Mr. Bagheri studied his design and showed the Board that it would be possible for him to initiate the proper changes and resubmit his application.

Chair Cecere informed Mr. Bagheri that the current application for variance before the Board needed to be addressed unless Mr. Bagheri withdrew his application. He further explained that if Mr. Bagheri maintained a 15 foot setback on the construction proposed in his variance and withdrew his application, he would not need to obtain the variance but would still have to obtain the required approval from his HOA.

Mr. Bagheri indicated that he wanted to withdraw his application, and he promised to maintain the 15 foot setback on all of his proposed construction.

Ms. Shearer confirmed that Mr. Bagheri could withdraw his application if he maintained the necessary setback.

Chair Cecere asked Mr. Bagheri if he understood the proceedings and that if he maintained the 15 foot setback in his proposed construction, he would not need Board approval but that this did not preclude approval from the HOA.

Mr. Bagheri confirmed that he understood and would keep within the setback limits.

Chair Cecere announced that the applicant had withdrawn his application for a variance and requested to close the record and end the meeting.

Mr. Georgopoulos requested that a recording of the meeting be maintained.

Adjourn

There being no further business, Chair Cecere asked for a motion to adjourn the meeting which was made by Member Kern and seconded by Member Foster. Motion passed unanimously. The meeting adjourned at approximately 8:36 p.m.

Respectively submitted

Nadine Tarwater