

# **LAYTONSVILLE BOARD OF APPEALS**

## **MEETING MINUTES**

**December 7, 2020 – 7:30 p.m.**

### **Roll Call**

A meeting of the Laytonsville Board of Appeals was called to order by Chair Cecere at 7:40 p.m. Board Members Foster, Kerns, Ols, and Ryan were present.

### **Minutes**

The minutes for the Board of Appeals Meeting of November 2, 2020, were submitted for approval. Chair Cecere asked for a motion to accept the minutes. Member Kerns asked that two corrections be made to the minutes. Member Foster seconded the motion to approve the corrected minutes. Motion passed unanimously.

### **Guests**

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**

None.

### **New 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.

### **Hearing**

Chair Cecere began the hearing by outlining the procedures and administering the swearing in oath to all those providing testimony.

Chair Cecere requested Mr. Bagheri to provide the background information regarding the request for the variance. It was noted that Mr. Bagheri was not represented by legal counsel.

Mr. Bagheri presented the application and explained that at the time of his home's construction, the need for a formal home office was not apparent. However, this has now changed, and he would like to build an addition to his house in order to work from home (his current business is located offsite) as well as hold meetings with business associates. The lower level of the addition would contain a storage area. He would also like to build a two level deck for family use. His drawings included a second driveway due to lack of parking spaces available with the current driveway as well as to permit easy access to his home office.

Chair Cecere noted that Mr. Bagheri had submitted updated drawings that replaced those originally attached to the application. Chair Cecere entered the application, the original drawings, photos, and the updated drawings and photos as Exhibits 1 through 4.

Chair Cecere asked clarification as to the nature of the double deck (any part to be enclosed), the setback of the deck, the patio, and the two staircases to be included.

Mr. Bagheri explained that the only enclosed structure would be at the front of the property, the other additions (deck and patio) would be located in the rear of the house and would not be enclosed. Mr. Bagheri also confirmed that NV Homes built the house.

Member Kerns asked if there was a compelling reason why plans were drawn in this manner as opposed to plans that would accommodate regular setbacks.

Mr. Bagheri indicated that he had been working with his contractor to avoid going for a variance but the result would have been a less than desirable outcome in regards to needed space and cost.

Member Kerns followed up with questions regarding the size of the deck space and the proposed encroachment on neighboring property.

Mr. Bagheri explained that it was his intention to build an addition and deck that would be large enough to accommodate the family's needs as well as maintain a pleasant look.

Member Foster asked if there had been any consideration to putting the addition on the right-hand side rather than the left-hand side and whether this was discounted due to the septic area.

Mr. Bagheri confirmed that the left-hand side was better to meet his needs.

Member Foster followed up by asking if Mr. Bagheri's plans needed approval from the community's HoA, if when he purchased the house he was aware of possible conflicts that would arise by any additions to the property, and the purpose of the second driveway.

Mr. Bagheri explained that his contractor had advised him to obtain approval from the town first, then the HoA, and finally Montgomery County. He had originally selected a different lot from NV homes because the selection of available lots was limited at the time. He was advised by the sales person that his current lot would become available shortly, but he needed to act quickly. Due to the time constraints, he was not able to go into details with the sales person regarding potential additions or changes. The rationale for the second driveway is for more parking area and easy access to his home office. Currently, his driveway is small and narrow, forcing his family and guests to park in the street

Chair Cecere asked if the proposed addition was the only reason a variance was needed.

Mr. Baghteri confirmed that since he was building an addition, he wanted the size to be comparable to his needs.

Member Kerns asked if Mr. Baghteri was aware that a home office would also need a special exception from the Board.

Mr. Baghteri explained that the home office would be for his personal use, not to operate a full time business in his home.

Chair Cecere opened the hearing to the public for questions.

Mr. Sarantos Georgopoulos (7006 Cracklin Court, Laytonsville, MD). Mr. Georgopoulos asked questions regarding discussions with NV Homes as to the model of home chosen, the potential for additions at a later date, the square footage of the current home, the distance of the property line to the septic system, and the exclusion of some specifications from the plans. Mr. Georgopoulos also pointed out that the current design shows a flat elevation around the storage area which is incorrect. The area would need to be graded and could have an impact on the water flow.

Mr. Lewis Brown and Ms. Trupti Brahmbhatt (7007 Cracklin Court, Laytonsville, MD). Mr. Brown asked if it was Mr. Baghteri intention to operate a commercial business out of his home, whether consideration was given regarding how a second driveway could affect other properties, and the need for the various items to be broken down rather than all lumped together signifying the encroaching onto other's properties.

Ms. Brahmbhatt asked Mr. Baghteri if he had considered widening his current driveway and if he was aware that a majority of homeowners had already widened their driveways to accommodate more parking area. She also voiced her concern that the proper HoA procedures had not been

followed regarding his plans (approval from the HoA as well as contacting relevant neighbors and obtaining their agreement), and whether the neighbors had been notified of the changes to the plans which were submitted during the current meeting. Ms. Brahmhatt added that the HoA By-Laws provide all necessary details regarding the community's processes and procedures.

Member Ryan enquired as to the proper protocol regarding this matter.

Chair Cecere stated that this matter would need further discussion.

Mr. John Mantzouranis (7002 Cracklin Court, Laytonsville, MD). Mr. Mantzouranis shared his concern regarding the use of the addition as a home office, and endorsed the concept of widening the original driveway rather than creating a second driveway that would have a negative impact on the aesthetics of the neighborhood.

Chair Cecere indicated that the second driveway was not up to the Board of Appeals since there was no setback issue.

Mr. Kevin Gutowski (21204 Cracklin Court, Laytonsville, MD). Mr. Gutowski is the Vice President of the HoA and indicated that there are specific by-laws which govern additions and changes to properties.

Mr. Giovanni Domally (7001 Cracklin Court, Laytonsville, MD). Mr. Domally brought up the size of the house and asked Mr. Baghteri if it were not possible to use one of the other rooms in the house as an office; and, if he was aware of the zoning and building restrictions as well as the HoA procedures. He voiced his concern that Mr. Baghteri did not try to obtain his neighbors' agreement before proceeding.

Mr. Baghteri reaffirmed his explanation that his office was for personal use only and did not intend to conduct a formal business from his home. It was not his intention to upset his neighbors or go against HoA guidelines. He was not aware of some of the restrictions concerning potential additions to his home, nor had he considered widening his current driveway. He did feel, however, that a second driveway was necessary and more convenient for his needs.

Testimony from Opponents to the Application:

Mr. Mantzouranis summarized his opposition to the application by stating that the application was incomplete. The HoA guidelines had not been followed, approval from Mr. Baghteri's neighbors had not been obtained, there is confusion as to what exactly was included in the application as well as the plans (i.e. parking area, separate entrance to addition, impact on aesthetics of the neighborhood, possible drainage problems, and encroachment on neighbor's property). Mr. Mantzouranis also voiced concern regarding the intention of the home office.

Mr. Mantzouranis requested that the submission be updated since the drawings did not depict the actual dimensions or topography of the property.

There was a discussion regarding the zoning ordinance and the how the ordinance could affect the variance.

Mr. Lewis Brown and Ms. Trupti Brahmbhatt summarized their opposition to the application by stating that Mr. Bagheri had not followed the by-laws of the Homeowners' Association and had not received the required approval. The additional driveway seems to indicate that the front yard will be paved resulting in a parking lot effect rather than a traditional driveway that leads to a garage; it was also mentioned that no other homes in the community have two driveways. The proposed second driveway would be located directly across from their first floor bedroom which would disturbed their peace and quiet. Both Mr. Brown and Ms. Brahmbhatt indicated that each homeowner had prior knowledge of the shape and size of their perspective lots and had ample opportunity to discuss possible restrictions or potential problems with the builder.

Mr. Charles Hendrick, Chair of the Laytonsville Historic District Commission, interjected that six properties in Laytonsville Preserve and other properties around town fell under the Commission's purview. He recommended that Mr. Bagheri first consult with the HoA since their decision would have a direct impact as to how the Board of Appeals could proceed.

Chair Cecere explained that Mr. Bagheri had consulted with the Town Hall and had been advised that he could submit his application to the Board. It was mentioned that the Town's application indicated that the applicant must comply with the HoA's guidelines if applicable. Chair Cecere also stated that he would be interested in reviewing the HoA guidelines. Mr. Gutowski agreed to this request and will send the necessary documents.

Mr. Chris Schiavone (7011 Cracklin Court, Laytonsville, MD). Mr. Schiavone highlighted the sensitivity surrounding the impact that Mr. Bagheri's additions could have on the community and property values. He requested that the diagrams be updated so that they provided the complete details of the project. He offered to help Mr. Bagheri with the process if necessary. He also indicated that he would have an issue with a second driveway.

Mr. Bagheri explain that it had not been his intention to disrespect or counter the HoA's guidelines. There was confusion regarding the restrictions and the process involved with the application for the variance. However, he did feel that his rationale for an office, where it was located, or the size of his house was outside the purview of his neighbors.

Member Kerns indicated that there were outstanding questions about the town's sequencing of approvals, as well as a lack of clarity associated with the structures. He requested the Chair to follow up with the Town Hall and the town's attorney for further clarification.

Chair Cecere put forward a motion to keep the record open until the next Board of Appeals meeting scheduled for January 11 in order to obtain the necessary clarifications.

The motion was seconded by Member Foster.

**Adjourn**

There being no further business, the meeting ended at 10:29 p.m.

Respectively Submitted,

Nadine Tarwater