



BOARD OF APPEALS MINUTES

Thursday, December 21, 2023

6:00 PM

In Attendance: Board of Appeals Members – Paul Miller, Laurie Resele, and Peter Sorensen – (*remote*). In addition to, Tom Yeager, Esquire – Lawyer, Eleanor Collyer – Town Council, Chris Rogers – Zoning Administrator (*remote*), and Brandee Vaughan – Code Enforcement Officer.

I. Call to Order

Chairman Paul Miller called the meeting to order at 6:02pm.

II. Approval of Minutes

There were no previous minutes to review and approve. Chairman Miller was concerned with these proceedings not having recorded minutes. Mr. Yeager agreed that there needed to be written minutes, however the Board is in compliance as there is an audio recording posted of every hearing. Mr. Yeager asked Brandee Vaughan, Code Enforcement if she would take minutes for this hearing. Chairman Miller asked to have the minutes distributed prior to the meeting in future for the board to have time to review.

III. Unfinished Business

- a. Planning Commission agreed to remove the “1 ½ Story” from the Zoning Ordinance and just keep the “20 feet” height requirement on accessory buildings.
- b. The Board thinks the height restriction in the Zoning Ordinance should be reviewed and changed, especially due to the rising sea levels.
- c. Chris Rogers, Professional Planner, has been hired as the Town Zoning Administrator.
- d. Chairman Miller brought up the fact that there is currently no alternate, Councilperson Collyer said that Mayor & Council will be addressing this during the next closed session, and council will decide who will be named alternate.

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- e. Board Member Resele asked does the tax office get notification of changes, alterations, and/or improvements. Mr. Yeager said typically properties get reassessed every three (3) years, however if the property goes from unimproved to improved, for example, building a home or garage, that usually will trigger an immediate reassessment.
- f. Board Member Resele asked about being approached by the previous code enforcement officer and asking her opinion on an appeal, she thought Chairman Miller had also been approached, and her understanding was that she was not to discuss with anyone about the appeal. Mr. Yeager stated generally the board needs to have an open mind, it is the job of the code enforcement officer to provide them with the information they need to decide, and they need to decide based on the evidence they receive and testimony they hear at the hearing. They should not be deciding or be predisposed prior to the hearing. It's an inappropriate question for staff to ask, however it is appropriate for the board, during a hearing, to request information from staff and take that into consideration. For clarification, staff should not ever ask any questions or have any discussion prior to the hearing.

IV. New Business

- a. **Variance Request:** *Request for a variance to Article V, Section 1D of the Rock Hall Zoning Ordinance by H&H Builders (representing the property owner David Meisel) for a 5-foot, 3-inch (5'3") variance from the required 30-foot maximum height for Residential uses to construct a residential dwelling on an existing lot located at 20770 Bayside Avenue.*

Mr. Yeager wanted to note for record the Application had "Special Exception" checked and it should be "Variance" and he changed it. Mr. Yeager swore in Mr. David Meisel. Mr. Meisel distributed a binder containing the following: notice of public hearing, plot map, renderings to scale, and artist simulated floor plans. Mr. Meisel explained there was a structure on the land previously, there is currently town water & sewer hook ups, the land has a lot of very mature trees that he does not plan to disturb, and he did not ask his neighbors to provide testimony. There was no objection to his application.

The plot of land shows non-tidal wetlands and the proposed dwelling is small. The first floor will be eight (8) walls of concrete with flood vents. Chairman Miller asked if there would be an affidavit regarding the first floor not being livable space. Mr. Meisel indicated the first floor would be non-livable space, it will be built with engineered lumber so it could be raised in the future for flood concerns. The extra height is the staircase. H&H Builders provided Mr. Meisel with other height requirement ordinances in surrounding areas, they were the

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following: Kent County, DE 35ft; Kent County, MD 38 ft; Queen Anne's County, MD 40 ft; Cecil County, MD 35ft, and of course Rock Hall, MD is 30 ft. Board Member Sorensen mentioned the board should stick with the code and the code should be changed. The board agreed the code should be reviewed for height restriction.

Board Member Resele explained to Board Member Sorensen, since he was remote, that the main roof structure falls within 30 feet, it is the roof on the stairway which is like a fire escape. Mr. Yeager stated that is why there is the opportunity for a variance, to grant minimum relief to property to build, and if it comes up frequently enough the town can consider the text to be amended. Mr. Sorensen was concerned about future requests, and Mr. Yeager said that the duty of the board is to review case by case and vote.

The finding of facts in the case of 20770 Bayside Ave, Mr. Meisel, is the application of the ordinance would produce unwarranted hardship and not shared generally by other properties and the authorization of such variance will not be of substantial detriment to adjacent properties and the character will not be changed. Chairman Miller made a motion to approve the 5-foot, 3-inch (5'3") height variance request of Mr. Meisel, Board Member Resele second the motion, all members voted, 2 Yeas and 1 Nay. Variance approved.

- b. Variance Request:** *Request for a variance to Article X, Section 7 of the Rock Hall Zoning Ordinance by Lance Rowe (representing the property owners Russell and Karen Parson) to expand an existing structure which is nonconforming with respect to the required side yard setback by enclosing an existing deck in the R-1 zone located at 5665 S. Main Street.*

Mr. Yeager swore in Mr. Lance Rowe. There were no objections to the application. Mr. Rowe explained the project is building a screen porch on an already existing 17X18 deck. He is requesting a variance due to the side yard setback requirement because of the addition of the roof.

The finding of facts in the case of 5665 S. Main St, Mr. Rowe, is the application of the ordinance would produce unwarranted hardship and not shared generally by other properties and the authorization of such variance will not be of substantial detriment to adjacent properties and the character will not be changed. Board Member Resele made a motion to approve the variance to allow the roof to go over the already existing deck with a seven (7) foot setback, Board Member Sorensen seconded the motion, all members voted, 3 Yeas, 0 Nay, unanimously approved.

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- c. **Variance Request:** *Request for a variance to Article X, Section 7 of the Rock Hall Zoning Ordinance by Lance Rowe to replace and expand an existing porch roof which is nonconforming with respect to the required front yard setback in the R-1 zone located at 5706 Main Street.*

Mr. Rowe was still sworn in. There was no objection to the application. Mr. Rowe would like to expand the existing front porch across the entire front of the house and for it not to come out any further than the existing porch and it would be the same setback. Chairman Miller asked about the purpose of the house and Mr. Rowe said it could possibly be a rental, and if it is he will be sure to process all the appropriate paperwork and understands he would be subject to lodging tax. Chairman Miller asked if any work had started, and Mr. Rowe informed the board he had to remove that 7X7 exiting porch as it was not in good shape and unsafe. The finding of facts in the case of 5706 Main St, Mr. Rowe, is the application of the ordinance would produce unwarranted hardship and not shared generally by other properties and the authorization of such variance will not be of substantial detriment to adjacent properties and the character will not be changed. Board Member Sorensen made a motion to approve the variance to expand the existing porch with the same setbacks as the existing porch, Board Member Resele seconded the motion, all members voted, 3 Yeas and 0 Nay, unanimously approved.

V. Adjournment

Chairman Miller adjourned meeting at 7:25pm.

Respectfully Submitted by:

Brandee Vaughan, Code Enforcement Officer