

STAFF REPORT**2022-03Z: Variation**

Community Development Department

Council Chambers, 7:30 PM, August 17, 2022

To: Brian O'Donnell, Chairman, Zoning Board of Appeals
 From: Brian J. Augustine, Zoning Administrator
 Re: 9049 Kildare Avenue – Floor to Area Ratio

General Information	
<i>Location</i>	9049 Kildare Avenue
<i>Request</i>	Variation in order to construct an addition resulting in a floor to area ratio of 0.66.
<i>Zoning Requirement</i>	0.6 maximum floor to area ratio (118-124(9))
<i>Petitioner</i>	Aaron Cohen and Elisheva Bernstein
<i>Existing Zoning & Land Use</i>	R1 Single-Family – Detached residence
	North R1 Single-Family – Detached residences
	South R1 Single-Family – Detached residences
	East R1 Single-Family – Detached residences
	West R1 Single-Family – Detached residences
<i>Assigned to</i>	Sean Arden

SITE INFORMATION

- The residence was constructed in 1956.

PETITIONER'S SUBMITTAL

The petitioner is requesting a variation in order construct an addition resulting in a floor to area ratio of 0.66.

APPEARANCE COMMISSION

The petitioner has not appeared before the Appearance Commission for this project.

STAFF ANALYSIS

Staff Comment and Review sheets were sent to all pertinent departments. The Forestry Division and Fire Department had general comments. The Community Development Department was the only department to provide specific comments.

Community Development Department

The Community Development Department recommends that the petitioner's request to construct the proposed addition be granted.

The proposed floor to area ratio is 0.66 rather than the 0.6 maximum. The lot is 7,872 square feet and the allowable floor area is 4,723 square feet. The proposed addition will make the floor area of the home 5,248 square feet.

Typically staff would not endorse a request for this large of an increase, but 808 square feet of the home is partially below grade and acts more like a basement than a 1st floor. The zoning ordinance specifies that any floor level that is partially or wholly below grade counts towards the floor to area ratio if a majority of the floor level is above grade. This rule was put in when the floor to area regulations were added about 23 years ago. To staff's knowledge it was added to clarify when a lower level would get counted towards the floor to area ratio.

Over time staff has found that similar houses with sub-grade floors count differently towards the floor to area ratio due to differences in the percentage of the floor located below grade. If one house has a basement that is 4 feet above grade and 3.5 feet below grade it counts as floor area. If a similar building has a basement that is 4 feet above grade and 4 feet 2 inches below grade it is not counted as floor area. In this example the appearance of both homes above grade is the same, but one has a larger floor to area ratio than the other.

STAFF RECOMMENDATION

Based on the proposed Findings of Fact, Staff recommends that the petitioner's request to construct an addition be granted.

ATTACHMENTS

1. Proposed Findings of Fact

Proposed Findings of Fact

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1	<i>Consideration</i>	Limitation on the use of the property due to physical, topographical, and geologic features.
	<i>Finding</i>	There are no limitations on the property due to physical, topographical or geologic features.
2	<i>Consideration</i>	The applicant can demonstrate that without a variance there can be no reasonable use of the property.
	<i>Finding</i>	Staff feels the applicant can clearly have a reasonable use of the property without a variation.
3	<i>Consideration</i>	The granting of the variance is not based solely on economic reasons.
	<i>Finding</i>	The variance request appears to be based on the desire to increase the floor area of the residence.
4	<i>Consideration</i>	The necessity for the variance was not created by the property owner.
	<i>Finding</i>	Staff feels the necessity for the variance for the variation was not created by the owner.
5	<i>Consideration</i>	The variance requested is the minimum variance necessary to allow reasonable use of the property.
	<i>Finding</i>	Staff feels the variance requested is not the minimum necessary to allow for reasonable use of the property.
6	<i>Consideration</i>	The granting of the variance will not be injurious to the public health, safety, or welfare.
	<i>Finding</i>	Staff feels the granting of the variance most likely will not be injurious to health, safety or welfare.
7	<i>Consideration</i>	The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties
	<i>Finding</i>	The building on the property is unique in that a portion of the building is counted towards the floor to area ratio that is partially below grade. If that floor is slightly more below grade it would not count towards as floor area.