



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
4500 KNOX ROAD COLLEGE PARK, MARYLAND 20740
TELEPHONE: (240) 487-3538 • FACSIMILE: (301) 887-0558

ADVISORY PLANNING COMMISSION
MINUTES OF MEETING
May 6, 2010 – 7:30 P.M.

PRESENT: Advisory Planning Commission – Robert Day, Lawrence Bleau, James McFadden, Heidi Jones-Huffman, Charles Smolka and Timothy Dennée; Planning Staff – Terry Schum, Elisa Vitale, and Theresheia Williams; Attorney – Susan T. Ford

- I. Call to Order:** Lawrence Bleau called the meeting to order at 7:30 p.m.
- II. Approval of Minutes:**
Timothy Dennée moved to accept the minutes of April 1, 2010. Charles Smolka seconded. The motion carried 5-0-0.
- III. Amendments to Agenda:** It was suggested by Commissioner Charles Smolka, if all members were present at the end of the meeting, elections would be held for the Chair and Vice-chair.
- IV. Public Remarks on Non-Agenda Items:** There were no Public Remarks on Non-Agenda Items.
- V. Public Hearings – Zoning Applications**
- | | |
|--------------------------|---|
| CPV-2010-02: | Variance to construct an 8-foot by 8-foot entry and front porch addition |
| <u>Applicant:</u> | James Bucheister |
| <u>Location:</u> | 9118 48th Place |

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. Wallis Sibila, the applicant's contractor, submitted the application on behalf of the applicant, James Bucheister. The applicant is requesting a variance of 5-feet from the required 25-foot front yard setback to allow construction of an 8-foot by 8-foot entry and front porch addition. The subject property is irregular in shape and has an area of 10,274 square feet. The rear property line measures 56.43 feet and the side property line measure 184.63 feet. The front and rear property lines do not intersect the side property line at a ninety degree angle. The property is improved with a one-story single-family house, driveway, deck and a shed. The subject house was constructed in 1960, and the subdivision dates to 1939. The applicant applied for and was issued a County building permit for the proposed work. When he applied for the City permit on April 16, 2010, it was determined that the County permit was issued in error. The proposed front entry and porch did not meet the required setback requirement. The North College Park Citizens Association indicated that they had no position on the variance, but would like to be a party of record. Staff recommends approval of the variance of 5-feet from the required 25-foot front yard setback to allow the construction of an 8-foot by 8-foot entry and covered front porch addition.

Elisa Vitale submitted the staff report and Exhibits 1-8 into the record. Commissioners accepted unanimously.

Wallis Sabilia, Tronia Ventures, LLC, testified that they are a construction management company representing Mr. Bucheister and his wife. He stated that the architectural plans submitted (Exhibit 8) shows that the proposed porch is well designed and he thinks it will enhance the look of the property and will help the applicants in inclement weather. He stated that the current entry stoop is flat and is only 36 x 36 squares, which is unsafe.

Lawrence Bleau asked if he would classify this as an improvement or remedy of the problem?

Wallis Sabilia, stated that it does improve the property, but it also help with ingress and egress of the residence.

Lawrence Bleau asked if there was a railing?

Wallis Sabilia stated that there is a railing on one side.

Commissioners reviewed the criteria that need to be met before the variance can be granted and determined that:

- 1) The property has an extraordinary condition in that the property is irregular in shape and the existing home is sited at the building restriction line, which does not provide an opportunity to construct a covered entry way without encroaching on the required front yard setback.
- 2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to or exceptional or undue hardship upon the property owner because the existing house was sited in such a way that it is parallel to the property line, which does not intersect the side property lines at a ninety degree angle. If the house was sited at a 90-degree angle to the front property line, a variance would not be required to construct the entry and porch addition.
- 3) Granting the requested variance will not impair the intent and purpose of the applicable County General Plan or County Master Plan because reasonably sized entry ways and covered front porches are not inconsistent with other properties in the surrounding neighborhood.

James McFadden moved to approve the variance because the request meets the three criteria for granting the variance for the reasons stated above. Robert Day Seconded. Motion carried 5-0-1, with Lawrence Bleau abstaining.

CPV-2010-01: Variance to expand an existing driveway and validate the existing home

Applicant: Nuyeed Rahmotin Kibria

Location: 9020 Autoville Drive

Robert Day explained the hearing procedures and placed witnesses under oath. Dorothy Friedman summarized the staff report. The applicant is requesting a variance of the Zoning Ordinance parking requirement, Section 27-120.01(c) to widen the existing driveway by 4-feet. The applicant also needs a variance of .6 feet from the minimum required 25-foot front yard setback, to validate the existing structure. The subject property is located in the Autoville subdivision and has an area of 11,434 square feet. The width of the property is 60 feet, the northern property line is 192 feet and the southern property line is 188.5 feet. The property is improved with a 1-story single-family home, 12-foot by 58-foot driveway, 28-foot by 28-foot parking pad, a deck and covered patio. The house was constructed in 1956 and it was purchased in 2007. The rear yard slopes away from the structure and drops off steeply beyond the parking pad. The surrounding neighborhood is single-family residential, consisting of one- and two-story dwellings. Parking is permitted on both sides of Autoville Drive. The property is one of eight 1-story homes on the west side of Autoville Drive. The driveways of four of these properties encroach on their front yards by several feet. The property has sufficient off-street parking for 4 vehicles. The applicant indicated that his family has three vehicles and he would like to park all of the vehicles in his driveway to prevent vandalism. He would also like to exit the driveway without moving the other parked vehicles. Staff recommends that the requested waiver of the parking requirements be denied for failure to meet criteria number 1, 2 and 3.

Dorothy Friedman submitted the staff report and Exhibits 1-5 into the record. Commissioners accepted unanimously.

Lawrence Bleau asked if the civic association submitted any comments?

Dorothy Friedman stated that the North College Park Citizens Association had no comments, but wishes to remain a party of record.

James McFadden asked what exactly is the request for?

Dorothy Friedman stated to construct a 4 foot x 20 foot addition in the front yard.

Nuyeed Kibria, applicant, testified that he is only requesting a 4-foot addition to the front pad so that he can move his car without moving the car parked at the head of the driveway. He leaves the house at 4:30 a.m. in the morning and it would be easier if he didn't have to move any vehicles to get out of the driveway. The applicant submitted Exhibits 6 and 7, which were letters from property owners at 9018 and 9022 Autoville Drive, stating that they do not object to the applicant widening the driveway.

Lawrence Bleau asked what would be the hardship if the variance was not granted?

Nuyeed Kibria stated that there is a lot of vandalism in his neighborhood. He lives right behind China Buffet and there are always a lot of people hanging around the business.

Robert Day asked if the curb cut will have to be changed?

Nuyeed Kibria stated no, it will stay the way it is.

James McFadden asked if he had thought about adding 4 feet to the parking pad in the back so all four cars could park side-by-side?

Nuyeed Kibria stated that it is impossible because of the slope.

Heidi Jones-Huffman asked if the property at 9018 Autoville Drive received a variance?

Dorothy Friedman stated that she did not know.

Commissioners reviewed the criteria that need to be met before the variance can be granted for the parking area requirement to widen the existing driveway into the front yard and determined that:

- 1) Although the property has an exceptional topographic condition in that the rear of the property drops off steeply at the rear of the property, this does not impact the applicant's request to expand the width of the driveway in front of the house.
- 2) The strict application of the County Zoning Ordinance will not result in a peculiar and unusual practical difficulty for the property owner. The applicant has sufficient space to park four cars on his property. Furthermore, there is on-street parking on Autoville Drive.
- 3) Granting the requested variance will impair the intent, purpose or integrity of the County General Plan and County Master Plan because the Zoning Ordinance prohibits driveways located in the front yard of a dwelling in the area between the front street line and side of the dwelling in order to improve the livability of neighborhoods and preserve neighborhood standards and the subject property has both an existing 12-foot wide driveway and also sufficient off-street parking for four vehicles in the rear yard.

Timothy Dennée moved to deny the variance because the request does not meet the three criteria for granting the variance for the reasons stated above. Lawrence Bleau seconded. Motion carried 5-1-0, with James McFadden voting nay.

Commissioners reviewed the criteria that need to be met before the variance can be granted for the .6 feet from the required 25-foot front yard setback to validate the existing structure and determined that:

- 1) The property has an extraordinary situation in that the structure was existing when the applicant purchased the property and when constructed in 1956 did not meet the required front yard setback of 25 feet with a discrepancy of .6 feet.
- 2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to the applicant in that the structure cannot be moved .6 feet to increase the front yard setback to 25 feet.
- 3) Granting the requested variance to validate the existing structure will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan because it will not change the character of the neighborhood or cause adverse impacts.

Heidi Jones-Huffman moved to approve the variance because the request meets the three criteria for granting the variance for the reasons stated above. Lawrence Bleau Seconded. Motion carried 6-0-0.

CPV-2010-04: Variance to construct an enclosed porch
Applicant: Michael Smith and Anne Roberts Smith
Location: 4605 Drexel Road

Robert Day explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicants are requesting a variance of 3.4% or 303 square feet from the maximum allowable lot coverage of 30% or 2,250 square feet to construct an enclosed porch in the rear yard of the property. The subject property is regular in shape. The front property lines measure 60 feet, the side property lines measure 125 feet. The property is improved with a two-story single-family house, a garage and driveway. The subdivision dates to 1928 and the house was constructed in 1946. The existing improvements were in place when the applicants purchased the property. The property is exactly at 30% lot coverage. The surrounding neighborhood is single-family residential and the property is located in the Calvert Hills neighborhood. The applicants have indicated that there is an existing tree stump located in the rear yard that cannot be removed, which precludes them from reducing the size of the porch. There is also a drainage problem in the area that results in standing water that attracts mosquitoes, which make it uncomfortable to spend time outdoors in the rear yard. Property owners at 4606 Drexel Road and 4604 Clemson Road have indicated support for the requested variance. There were no comments from the Calvert Hills Citizens Association. Staff recommends approval of the requested variance.

Elisa Vitale submitted the staff report and Exhibits 1-7 into the record. Commissioners accepted unanimously.

Lawrence Bleau asked if the driveway is going to stay where it is or if it will be turned into a porch?

Elisa Vitale stated yes, the driveway will stay at the current location.

Michael Smith, applicant, testified that there was a 70-foot Gum tree in the rear yard with a 4-foot stump located near the steps to the basement of the property. The stump cannot be removed, which precludes them from putting the porch there. He stated that the rear door is elevated above grade. The applicant submitted a letter from the property owners at 4607 Drexel Road, which was entered into the record as Exhibit 7c, indicating their support of the requested variance.

Lawrence Bleau asked how far off the ground is the rear door?

Michael Smith stated that there is a 9-foot drop from the rear door to the ground level.

Lawrence Bleau asked would the entire proposed deck be screened in?

Michael Smith stated yes.

Robert Day asked how high would the deck be off the ground?

Michael Smith stated that the deck is only two-feet

Commissioners reviewed the criteria that need to be met before the variance can be granted and determined that:

- 1) The property has an extraordinary condition in that the driveway, garage, house and deck which existed when applicants purchased the property included an egress door in the kitchen which led onto the deck which door is now 9 feet to the ground level since the deck was removed. The placement of the re-build of the deck and enhancement with a screened porch is hampered by the presence of an extremely large tree stump with a significant root system near the stump. The presence of the tree stump, which is difficult to remove, is not the result of the applicant's actions. The size and location of the tree stump prevent the applicant from building a porch structure that would conform to the Zoning Ordinance. Given the 9-foot drop from the back door to ground level, a porch structure is necessary to mitigate a safety hazard.
- 2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to and an undue hardship upon the property owner because the applicants cannot construct a smaller enclosed porch due to the presence of the large

tree stump on the property. Furthermore, a drainage issue in the neighborhood contributes to standing water, which attracts

*Advisory Planning Commission Minutes
May 6, 2010 – Page 7*

mosquitoes. This condition makes the use of the yard during the summer months unpleasant. A screened porch will allow the applicants to enjoy their yard with protection from mosquitoes.

- 3) Granting the requested variance will not impair the intent and purpose of the applicable County General Plan or County Master Plan because enclosed porches are not inconsistent with other properties in the surrounding neighborhood.

Lawrence Bleau moved to approve the variance because the request meets the three criteria for granting the variance for the reasons stated above. Heidi Jones-Huffman Seconded. Motion carried 6-0-0.

Public Hearings – Fence Ordinance

CEO-2010-02: Variance to construct a 4-foot high wood picket fence in the front and side yard
Applicant: Adam and Yoko Kushner
Location: 5013 Hollywood Road

Robert Day explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicants are requesting a variance from the requirements of City Code §87-23.B and C to permit construction of a 4-foot wood fence in the front yard and the side street yard along the eastern property line. The subject property is regular in shape and has an area of 9,375 square feet. The property is a corner lot located at the corner of Hollywood Road and 51st Avenue. Hollywood Road is the legal front of the property. The front and rear property lines measure 75 feet and the side property line measures 125 feet in length. The property is improved with a one- and one-half story single-family home, driveway with access to 51st, and garage. The subdivision dates to 1906 and the subject structure dates to 1937. The single-family home on the subject property is sited 40 feet back from the property line, which exceeds the required 25-foot front yard setback. The North College Park Citizens Association has indicated that it has no position, but would like to be a party of record. The subject property has landscaped beds along Hollywood Road and 51st Avenue. Staff recommends approval of the requested variance appeal.

Elisa Vitale submitted the staff report and Exhibits 1-8 into the record. Commissioners accepted unanimously.

Lawrence Bleau asked if there are other houses with similar setbacks?

Elisa Vitale stated yes, the properties that aren't corner properties could reasonably fence a rear yard area. Some of the corner properties do have fences out to the property line in the surrounding neighborhood.

Adam Kushner, applicant, testified that they had thought about fencing a smaller area, but grass would not grow in the area due to the use of the property. He stated that he looked into installing an invisible fence, but because of all the dogs

in the area, that would not be a good solution. He thinks that the picket fence will be more aesthetically pleasing to the neighborhood.

*Advisory Planning Commission Minutes
May 6, 2010 – Page 8*

Lawrence Bleau asked what would be the hardship if the variance was not granted?

Adam Kushner stated that he would like to have the ability to let his dog outside and when they do decide to have children, someplace safe for them to play. He said that he is in the military and if the variance were not granted, he would probably move someplace else.

Timothy Dennée asked if he would consider pulling back the front yard portion of the fence to the building line?

Adam Kushner stated that he thought of that, but when they envisioned it they didn't think it would look nice.

Lawrence Bleau asked how accurate is Exhibit 7, showing what the proposed fence would look like?

Adam Kushner stated that it is close; he would like to do some kind of post and picket design with an architectural styling. He will be using hardwood, not pressure treated.

Commissioners reviewed the criteria that need to be met before the variance can be granted and determined that:

- 1) The placement of the house and garage on the property creates an extraordinary condition that supports the request for the variance. The property predates Zoning and is sited 40 feet back from the front property line. Because the house exceeds the front yard setback requirement, the functional rear yard area traditionally supporting recreational use is greatly diminished. Furthermore, the previous owner constructed a large garage on the property, which limits the usable yard area.
- 2) Denial of the variance would result in an undue hardship to the property owner because single-family homes are generally sited in such a way that owners may fence the rear yard of their property. Given the setback of the house and the presence of the detached garage, the Applicant is unable to fence a usable area without the need for a variance.
- 3) The APC concludes that construction of a 4-foot wood picket fence will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. Other corner properties in the neighborhood have fences located in the front and side street yards.

- 4) The appeal is consistent with the design guidelines adopted for the historic district, if applicable. Not applicable.
- 5) Granting the variance will not adversely affect the public health, safety, welfare or comfort. The applicant is setting the fence back approximately 10 feet from Hollywood Road and 51st Avenue and 25 feet from the corner at the intersection of Hollywood Road and 51st Avenue to prevent any impact to sight distances. The applicant is providing gates for access to the front and rear of the property.
- 6) The proposed fence is a 4-foot wood picket fence, which incorporates openness and visibility.
- 7) The proposed fence, a 4-foot wood picket fence, is consistent in setback with other fences in the neighborhood.

James McFadden moved to approve the variance because the request meets the seven criteria for granting the variance for the reasons stated above. Heidi Jones-Huffman Seconded. Motion carried 4-2-0, with Lawrence Bleau and Timothy Dennée voting nay.

VI. Update on Development Activity Terry Schum reported on the following:

Domain at College Park – This is a proposed mixed-use project on Campus Drive and Mowatt Lane. The Detailed Site Plan will be on the City Council May 18, 2010 agenda. A three-day Charrette was held April 26 – 30 to look at planning issues in the area. The PowerPoint presentation will be available shortly with results of the charrette.

Chinese Bible Church – The Detailed Site Plan will be on the City Council May 18, 2010 agenda. Chinese Bible Church is located on Autoville Drive on the West side of Rt. 1.

M Square – The Detailed Site Plan will be on the City Council agenda in June. M Square consist of three office buildings one of which is located in College Park.

East Campus – University of Maryland has published an RFP seeking a master developer for East Campus. They plan to select a developer by the end of the summer.

Facilities Master Plan – University is updating their Facilities Master Plan, which is a 10-year planning update process. The primary issues are transportation and landscape.

Campus Drive – There will be a trial closure of Campus Drive to all vehicles except for two campus connector routes. The closure will start on July 19, 2010 through August 18, 2010. There may be a possible permanent closure in 2011.

VII. Other Business:

Commissioners voted 6-0-0 to elect Lawrance Bleau as Chair and Heidi Jones-Huffman as vice-chair.

VIII. Adjourn: There being no further business, the meeting was adjourned at 9:30 p.m.

Minutes prepared by Theresheia Williams