



**CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION**  
**4500 KNOX ROAD COLLEGE PARK, MARYLAND 20740**  
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**ADVISORY PLANNING COMMISSION**  
*Approved Minutes of Meeting*  
*September 3, 2015 – 7:30 P.M.*  
*City Hall – Council Chambers*

<u>Members</u>	<u>Present</u>	<u>Absent</u>
Mary Cook, Chair	<u>  x  </u>	<u>      </u>
Lawrence Bleau	<u>  x  </u>	<u>      </u>
James McFadden	<u>      </u>	<u>  x  </u>
Rose Greene Colby	<u>  x  </u>	<u>      </u>
Christopher Gill, Vice Chair	<u>  x  </u>	<u>      </u>
Kate Kennedy	<u>  x  </u>	<u>      </u>

Also Present: Planning Staff – Terry Schum, Miriam Bader and Theresheia Williams; Public Services Staff – Robert Ryan, Jeannie Ripley and CEO Mark Russo; Attorney: Sue Ford

**I. Call to Order:** Mary Cook called the meeting to order at 7:33 p.m. and introduced the new member, Kate Kennedy, from District 1.

**II. Approval of Minutes:**

Lawrence Bleau moved to accept the minutes of August 6, 2015. Christopher Gill seconded. The motion carried 5-0-0.

**III. Amendments to Agenda:** Lawrence Bleau moved to add Item CEO-2015-02 to the beginning of Item V, Public Hearings. Christopher Gill Second. Motion carried 5-0-0.

**IV. Public Remarks on Non-Agenda Items:** There were no Public Remarks on Non-Agenda Items.

**V. Public Hearings:**

**CEO-2015-02                      Variance to Erect a 6’ High Temporary Front Yard Fence**  
Applicant:                      **Cruz Development Corporation**  
Location:                        **Branchville Road**

Daniel Lynch, from McNamee Hosea, representing the applicant, submitted a letter requesting a continuance until the October 1, 2015 meeting. Mr. Lynch stated that there was a misscommunication in reference to the date of the hearing and that the applicant resides in Massachusetts and would like to be present at the hearing.

The letter was entered into the record as Exhibit 10. Commissioners accepted unanimously.

Lawrence Bleau moved to continue the hearing until October 1, 2015. Rose Colby seconded. Motion carried 5-0-0.

**15-2019**                      **Appeal for Failure to Remove a Dead Tree in Front Lawn**  
**Appellant:**                **Leo L. Thomas, Sr.**  
**Location:**                 **3511 Metzerott Road**

Mary Cook explained the hearing procedures and placed witnesses under oath. CEO Mark Russo summarized the staff report. During a routine foot patrol on Saturday, June 28, 2015, he observed a large tree in the front yard of the property, less than ten feet from Metzerott Road. The tree appeared to be completely dead, no leaves at all. According to the City Code, the tree would present a hazard if it were to fall because it would block all lanes of Metzerott Road, which is a high traffic area for vehicles and students walking or biking. It would also damage the power lines across the street. The City Public Works Deputy Director conducted an inspection and reported that the tree was dead and had visible defects at the base of the trunk and if it should fall, could impact homes and cars parked or driving on Metzerott Road. On July 2, 2015, the applicant submitted an appeal and at that time, all further enforcement action was suspended.

Mary Cook asked if PEPCO would remove the tree if they found it to be a danger to their lines?

Mark Russo stated yes, they have removed trees in the past if it presented a danger or have the potential to contribute to power outages.

Mary Cook asked if there is usually a warning issued for this type of violation?

Mark Russo stated that essentially, this is a warning. It's a Notice of Violation but a fine is not assessed unless it is past the appeal deadline.

Mark Russo read the e-mail from Brenda Alexander, Deputy Director of Public Works, dated July 28, 2015, indicating her findings and comments about the tree, which were entered into the record as Pg. 15.

Terry Schum, Planning Director, stated that the applicant has indicated that the tree is in the County's right-of-way, which appears to be 80' at this location. It appears from the photos that the tree is located between the sidewalk and the curb, which would place it in the County's right-of-way. She stated that if this is accurate, it may be the County's responsibility to remove the tree.

Mark Russo stated that the City Engineer contacted the County to make that determination, but he has not received a response back.

Sue Ford, attorney, stated that the City Code Section 125(10)(j) states that it is unlawful for any property owner or occupant to allow dying trees, which constitute a hazard, to grow or accumulate on any private property adjoining any of the streets, alleys or lanes within 200 feet of the City of College Park. The owner or occupant shall keep adjacent city streets, sidewalks and right-of-way clear of such obstruction. The property owner's responsibility is for trees on private property only. The issue of where the tree is located is relevant to the determination.

Lawrence Bleau moved to continue the hearing until the issue of where the tree is actually located can be resolved. Christopher Gill seconded. Motion carried 5-0-0.

**CPV-2015-05                      Variance to Expand an Existing Driveway**

**Applicant:                      Georgia Romas**

**Location:                      4903 Laguna Road**

Mary Cook explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting a variance to validate the widening of an existing driveway by 10 feet in the front yard to accommodate 2-3 vehicles. The County approved the driveway widening and the driveway was expanded without a City permit. The original driveway is 10-feet in width and 26.04 feet in length and encroaches into the front yard by 3-feet. The property has an area of 7,050 square feet with a width of 60 feet and a length of 117.5 feet. The house consists of a two-story, brick frame house and was constructed in 1964. Part of the purpose of the driveway expansion and sidewalk modifications is to improve access for the elderly homeowner to her house.

On November 13, 2014, the applicant's contractor applied for and was granted a driveway expansion permit from Prince George's County. On December 11, 2014, DPIE issued an "OK to Pour" Order and the contractor poured a new driveway including the expansion. On May 12, 2015, the Department of Public Services issued a violation notice notifying the applicant that his driveway was constructed without a city permit. The applicant applied for a building permit on May 18, 2015. A permit cannot be approved by the City unless a variance is granted. If the variance is denied, the applicant can still file a "Request for Validation of Permit Issued in Error." Staff recommends approval of the requested variance to allow parking in the front yard consistent with the as-built site plan.

Miriam Bader submitted the staff report, Exhibits 1-10 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

Mary Cook asked how wide is the original driveway?

Miriam Bader stated ten feet.

Georgia Romas, applicant, testified that she wanted to enlarge her driveway for sometime due to the increased number of cars parking on her street. She stated that there are two houses on her block that rent to college students, which limit the amount of on-street parking. She stated that the house front porch has started to slant and there are cracks in the sidewalk that need to be repaired. She stated that they usually park their two cars in the driveway, which requires a lot of manipulation. She stated that with the expanded driveway, when it snows, her son can park his car in the driveway to leave room for the snowplows to come onto her street. She stated that they thought the contractor was taking care of all the permits.

Kevin Nelson, 4901 Laguna Road, testified that he did a random search in the neighborhood for approximately 30 minutes and found a total of 15 homes that had a similar configuration to the applicant's driveway.

Scott Swain, 4900 Laguna Road, testified that Georgia Romas and Ann Nelson have the nicest driveways on the street. He stated that there is a problem with a lot of cars on the street, so one more car off the street will make a big difference.

Christopher Gill asked if the County issued the permit in error?

Miriam Bader stated yes.

Mary Cook asked if granting the variance will correct the error?

Miriam Bader stated yes, she spoke with the County and they would prefer that the applicant go through the variance process.

Commissioners accepted the following additional Exhibits into the record:

Exhibit 11 – Georgia Romas letter of her testimony

Exhibit 12 – Construction Proposal for the work to be performed

Exhibit 13 – E-mail from Joy Wolfram, 4904 Laguna Road, supporting the variance

Exhibit 14 - List from Kevin Nelson, 4901 Laguna Road, showing similar driveways as the applicant

Commissioners reviewed the evidence and testimony submitted and determined that:

1. The property has an extraordinary situation. Due to the narrowness of the property and size and orientation of the existing house, the side yards are not wide enough to accommodate a standard driveway without encroaching in front of the house.
2. The applicant applied for and was approved for a County permit. In reliance upon this approval, the applicant poured the driveway. It was later determined the County issued the permit in error. The strict application of the County Zoning Ordinance will result in an undue hardship upon the property owner by requiring removal of the driveway expansion.
3. Granting the variances requested will not impair the intent and purpose of the applicable County General Plan or County Master Plan, because the proposed driveway size and location are not out of character with the neighborhood and the maximum permitted lot coverage will not be exceeded.

Christopher Gill moved to approve variance CPV-2015-05 because the request meets the criteria for granting the variance for the reasons stated above. Rose Colby seconded. Motion carried 5-0-0

**CEO-2015-01                      Variance to Construct a 6-foot High, Wood Fence in the Front Yard**

**Applicant:**                      **Victoria MacDonald**  
**Location:**                      **5007 Quebec Street**

Mary Cook explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting a variance to replace a worn and rotting 5-foot high wood picket fence with a board-on-board 6-foot high fence. The top one foot of the fence would be made of lattice and the purpose is to restrain a large dog. The owner has a large, 70-pound German Sheppard K9, who easily jumps over the existing 5-foot fence. She would also like to replace a 4-foot high chain link fence with a 4-foot high wood picket fence in the front yard of a corner through-lot.

The property contains 9,000 square feet, was built in 1993 and is improved with a 2-story, single-family frame house and a shed. The lot is an unusual shape and has an extraordinary condition in that it is a corner through-lot on three rights-of-way. There are three existing fences on the property: a 5-foot high wood picket fence along Patuxent Avenue, a 4-foot high wood picket fence along the Pontiac Street right-of-way, and a 4-foot high chain link fence along the western property line. Staff recommends approval of the requested variance.

Miriam Bader submitted the staff report, Exhibits 1-8 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

Victoria MacDonald, applicant, testified that the fence needs to be replaced, and she thinks it would improve her property value. She would like a higher fence without holes to block the view of the public from the dog. Ms. MacDonald stated that she has been robbed five times since living at this address.

Lawrence Bleau asked how long has she had her dog?

Victoria MacDonald stated since 2009.

Faith Rodell, 8417 Patuxent Avenue, testified that she has lived at this address for 42 years. She stated that she supports the requested variance and thinks it will be a beautiful fence. She stated that a lot of students travel along their street, and being a single woman, Ms. MacDonald needs a dog for protection. She stated that she drove around the neighborhood and found 5 homes that have rear yards that are considered by the County to be front yards.

The Commissioners unanimously accepted the following Exhibits into the record:

- Exhibit 9 – Photo of the applicant’s back yard from 8417 Patuxent Avenue
- Exhibit 10 – Four e-mails supporting the variance request
- Exhibit 11 – Memo from Victoria MacDonald listing properties with comparable fences

Commissioners reviewed the evidence and testimony submitted and determined that:

1. The lot is an unusual shape (generally triangular) and has an extraordinary condition in that it is a corner through-lot fronting on three rights-of-way. Based on the County definition, this lot has three front yards, one side yard and no rear yard which is unusual.
2. Denial of the variance will result in an undue hardship by denying the owner the use of a functional back yard. Due to the uniqueness of the lot being a corner through-lot (having three frontages), the applicant does not have a legal back yard. Rather, the proposed fence will serve to help create a back yard for the property owner.
3. Granting the variance will not impair the intent, purpose or integrity of the Fence Ordinance because the applicant has demonstrated an extraordinary condition, a lot with no legal back yard. It is not the intent of the Fence Ordinance to prohibit a property owner from enjoying a back yard. Further, no new fence is proposed in the apparent front yard, and replacement of existing fences is permitted.
4. Not applicable, the property is not located in an historic district.
5. Granting the variance will not adversely affect the public health, safety, welfare or comfort. The fence is proposed along Patuxent Avenue and the Pontiac right-of-way which was never improved and is used as a park. Site distance for visibility and safety purposes will not be adversely affected.
6. One fence is proposed to be board-on-board with the top foot being lattice. The other fence is proposed to be a picket fence. Both these fences will incorporate sufficient openness and visibility and are consistent with the surrounding neighborhood.
7. The portion of the fence that is located in back of the house and presents as a back yard fence is characteristic of and consistent with the surrounding neighborhood. The proposed replacement picket fence is also characteristic of and consistent with the surrounding neighborhood.

Christopher Gill moved to approve the variance with the condition that the replacement fence along Patuxent Avenue be at least as far from the curb as the current fence. Kate Kennedy seconded. Motion carried 5-0-0.

## **VI. Discuss Proposed Listening Session on Fences**

Commissioners discussed the possibility of having a listening session on proposed changes for the Fence Ordinance based on resident concerns about front yard fences. The following items were discussed and agreed upon in order for the session to be effective. A tentative date of December 3, 2015 was approved.

- Schedule the listening session after the City election.
- Include basic information on the flyer or e-mail. Be as specific as possible. No dialogue debate during public comment.
- Should be promoted or advertized to give sufficient time for people to read the fence ordinance and formulate an opinion.
- Staff will conduct a brief orientation 15 minutes before the listening session.
- Should be conducted on one night and give the opportunity to submit comments.
- Include the County's Ordinance.
- Public Services and Planning should work together.
- Schedule an additional APC meeting if there are variances for the December agenda.

**VII. Update on Development Activity:** Terry Schum reported on the following:

**Cruz Development Project** – The developer will be applying to the State of Maryland for development financing next week. The Branchville Crossing revised plan has 6-stories and 72 units and still requires some variances. Variances will be heard by the County Planning Board.

**Easy Storage Facility** – The proposed site is at the end of Branchville Road, north of 193 in the industrial area. Notices have been sent out. They intend to file their Detailed Site Plan with Park and Planning shortly. The existing business will be razed.

**VIII. Other Business:** Bob Ryan and Jeannie Ripley discussed the proposed new code enforcement violation forms. Bob stated that the proposed forms contain too much information and would be time consuming for code enforcement to complete while out on patrol in the middle of the night when they have other complaints that they have to address. They are looking at expanding some of the information on the current form and having a more complete incident report that the code enforcement office would complete at the end of their shift and send out to the property owner. They are working with the IT staff to upgrade the City's software to combine all the different software programs so that data can be entered once. The software vendor that they are working with is Sungard. The new forms probably won't be implemented until the first of the year.

**IX. Adjourn:** There being no further business, the meeting was adjourned at 10:00 p.m.

Minutes prepared by Theresheia Williams