



**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**  
**August 7, 2014 – 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>
Clay Gump, Vice-Chair	<u>  x  </u>	<u>      </u>
Lawrence Bleau	<u>  x  </u>	<u>      </u>
James McFadden	<u>  x  </u>	<u>      </u>
Rose Greene Colby	<u>  x  </u>	<u>      </u>
Christopher Gill	<u>      </u>	<u>  x  </u>

Also Present: Planning Staff- Terry Schum, Miriam Bader and Theresheia Williams; City Engineer - Steve Halpern; Attorney – Suellen Ferguson.

**I. Call to Order:** Mary Cook called the meeting to order at 7:50 p.m.

**II. Approval of Minutes:**

Lawrence Bleau moved to accept the minutes of July 3, 2014. Rose Colby seconded. The motion carried 5-0-0.

**III. Amendments to Agenda:** Item VI was moved up on the agenda to allow members to arrive for a quorum.

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

**V. Public Hearings:**

**CPV-2013-02/R:       Reconsideration of Action Taken on Resolution**  
**13-R-08 to Validate the As-Built Site Plan**  
Appellant:       **Richard Kager**  
Location:       **3533 Marlborough Way**

Mary Cook explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting a reconsideration for a variance request that came before the APC on May 2, 2013 to expand a driveway and extend a retaining wall to accommodate the expanded driveway. The APC recommended the expansion be reduced to the minimum necessary to accommodate the applicant’s needs at the time, which was 10 feet by 12 feet. A stipulation was added that the existing apron remain as-is with no additional driveway apron being added. The APC also recommended that the 10 foot expansion of the existing retaining wall be permitted subject to the retaining wall being constructed of similar gray stone materials and at the same height as the existing retaining wall. On June 11, 2013, the Mayor and Council adopted APC’s recommendation by approving Resolution 13-R-08.

On June 19, 2013, the applicant's contractor applied for and was granted a County and City building permit. The site plan submitted showed the driveway reduced from the originally requested 10 feet by 17 feet driveway to the approved 10 feet by 12 feet. The location of the driveway was shifted closer to the street by 5 feet in order to accommodate actual site conditions. The handicapped accessible sidewalk was also shifted closer to the street in order to meet ADA grade requirements. The applicant is now requesting the APC to reconsider their action in order to validate the as-built site plan. Mr. Kager would also like to request permission from the Mayor and City Council to widen his driveway apron to accommodate the corresponding driveway pad.

Staff recommends that the as-built site plan be validated without any conditions.

Miriam Bader submitted the staff report, Exhibits 1-7 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

Mary Cook asked if the applicant is requesting to validate the site plan or to expand the apron to double-wide?

Miriam Bader stated that they are requesting validation of the as-built site plan. The APC does not have the authority to expand the apron because it is in the City's right-of-way. The City Engineer would make a recommendation to the City Council for the apron.

James McFadden asked what is the difference between a curb cut and apron?

Steve Halpern, City Engineer, stated that the curb cut is the portion of the street which borders between the pavement and the green space. The area where there would be vehicle access from the street onto the property. The apron is the portion from the curb to the property line.

James McFadden asked if the applicant is requesting an apron or double-wide curb cut from the Mayor and Council?

Steve Halpern stated that they would be requesting a double-wide apron, which would expand the curb cut.

Richard Kager, Sr, applicant, testified that he uses two different cars to serve his needs. He has a wheelchair accessible van for when he uses his motorized wheelchair and he uses his standard car when he uses his walker. It depends on where he needs to travel and the situation. Mr. Kager stated that he currently parks his van on the east side of the driveway close to the handicap accessible sidewalk and his car on the west side of the lot. If he is permitted to widen his driveway apron, he will be able to more easily access both vehicles. Without widening the apron, in order to accommodate both cars, he has to drive his van over the grass, which creates muddy trenches next to his existing driveway apron. Mr. Kager stated that parking on the street is a solution, but most people on their street have 3 or 4 cars. If cars are parked on the street 24 hours or longer, they can be towed.

Richard Kager, Jr and Roger Kager, the applicant's sons, testified that they both live with their father as his caregivers. They stated that circumstances have changed that necessitate the need for two vehicles to serve their father's needs. Both of their vehicles are parked in the front of the house on the street where other neighbors also park their cars, which becomes a little crowded at times.

Clay Gump asked why is there a need for two vehicles?

Roger Kager stated that his dad had both vehicles before the construction and he is optimistic that he will drive again.

James McFadden asked what should APC be looking at as far as the technicalities on the voting?

Suellen Ferguson stated that what was needed was a parking pad not a double-wide driveway. When the contractor installed the driveway and the retaining wall it was shifted 5 feet closer to the street. Therefore, this case is being reconsidered because the applicant is back with additional reasons for what was originally requested.

Terry Schum stated that the original request was actually for a longer driveway, so it was a larger variance. This is not a new variance, it just wasn't constructed according to the site plan that APC approved.

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

- 1) The property has an exceptional topographic condition with steep slopes at the eastern end of the driveway and extraordinary conditions due to the location of existing site conditions, including the steps, mature shrubs and a light pole, that caused the contractor to shift the location of the driveway and associated retaining wall five (5) feet closer to the street. The sidewalk was shifted 12 feet closer to the street in order to meet ADA slope requirements for handicapped accessibility.
- 2) The strict application of the County Zoning Ordinance will result in practical difficulties for the applicant by not allowing the improvements, which were constructed to accommodate existing site conditions and to make the sidewalk ADA accessible, to remain in place. The improvements as constructed allow applicant to access his vehicles via wheelchair or walker.
- 3) Granting the variance will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. The Fair Housing Act mandates "reasonable accommodations" to allow persons with disabilities an equal opportunity to use their dwelling.

Lawrence Bleau moved to approve the variance with the amended language because the request meets the criteria for granting the variance for the reasons stated above. James McFadden seconded. Motion carried 5-0-0.

**VI. Staff's Clarification of Decision on Variance CPV-2014-05 (5926 Bryn Mawr Road)**

Miriam Bader stated that on May 9, 2014, the applicant submitted an appeal from Prince George's County Zoning Ordinance, Section 27-420 (a) which restricts fences in the front yard and side yard of corner lots to a height of four feet. The specific request is for a variance from the requirements set forth in the Prince George's County Zoning Ordinance, Section 27-420 (a), in order to construct a six-foot high, wood, board on board fence in the side street yard. A variance of two feet from the maximum height of four feet is required.

Oral Argument was requested by the City Council and the hearing is scheduled for August 12, 2014 at 7:00 p.m. in the Council Chambers.

Miriam clarified the definition of front yard as it pertains to the City and County Ordinances. The County Ordinance states that the short side of the property is considered as the front yard even though the front door may be on the long side of the property. As for this property, the short side is Edmonston Road, therefore a variance is needed to construct a 6-foot fence for 3 sides. The City Fence Ordinance does not permit a fence in the front yard, therefore they are in compliance.

Miriam is proposing the following section changes be recommended to the Mayor and Council for the Findings of Fact in their resolution:

1.4 The County's Ordinance requires a variance on the subject property to construct a 6-foot fence in the side yards.

Section 2 The APC makes the following conclusions of law with regard to CPV-2014-05 for a height variance to install a, 6-foot high, wood fence.

2.2 The strict application of the County Zoning Ordinance will result in undue hardship upon the property owner by preventing him from adequately protecting his child, his pet and his property. He lost a dog that ran onto Edmonston Road and he has been the victim of property crime at this address.

**VII. Attorney Input on Distribution of Electronic Packets**

Suellen Ferguson stated that legally, there is nothing that requires that information be provided to the APC in a certain way. The City has a retention schedule to follow and a physical paper file of the official record should be kept in the Planning Department. She stated that commissioners may choose electronic or paper format to receive their packets- there are no restrictions.

Commissioners made the following suggestions to staff when preparing the packets:

- 1) Add page numbers.
- 2) Insert site plan behind the staff report.
- 3) Rotate selected pages to landscape in electronic format.

**VIII. Update on development Activity:** Terry Schum reported on the following:

**University of Maryland Conference Hotel** – There was a presentation at the City Council worksession on August 5<sup>th</sup>. The application has not officially been filed. The developer is required to file a Subdivision Application and Detailed Site Plan. There is a meeting scheduled for Monday, August 11, 2014 with the County Executive's Office and Park and Planning. Anyone can testify or be a party of record in these cases.

**Knox Boxes Development** – The new owners, Toll Brothers, will be going to settlement by Monday, August 11<sup>th</sup>. They are willing to let students terminate their leases early without penalty. They have informed staff of contact numbers where students can call and get information and are in the process of setting up an onsite office to schedule appointments to meet with residents. As soon as they settle on the property, they will be razing the property and closing Rossburg Drive.

**IX. Other Business:** There was no other business.

**X. Adjourn:** There being no further business, the meeting was adjourned at 9:06 p.m.

Minutes prepared by Theresheia Williams