



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
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ADVISORY PLANNING COMMISSION
MINUTES OF MEETING
January 6, 2011 – 7:30 P.M.

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

7:00 – 7:30 Commissioners met in executive session with Counsel to discuss legal matters.

- I. **Call to Order:** Lawrence Bleau called the meeting to order at 7:30 p.m.
- II. **Approval of Minutes:**
Robert Day moved to accept the minutes of October 7, 2010. Timothy Dennée seconded. The motion carried 7-0-0.
- III. **Amendments to Agenda:** There were no Amendments to the Agenda.
- IV. **Public Remarks on Non-Agenda Items:** There were no Public Remarks on Non-Agenda Items.
- V. **Public Hearing – Zoning Application**
CPV-2010-11: Variance to replace an existing driveway
Applicant: Mary Dugan-Hoelk & Mark Hoelk
Location: 4603 Fordham Road

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicants are requesting a variance of 402.5 square feet or 6% from the maximum allowable lot coverage of 2,021.3 square feet or 30% to replace an existing driveway. There is an existing concrete driveway running from the street back to the garage. The proposed configuration will reduce the visual impact of the driveway but will not reduce the total lot coverage. The property is zoned R-55 and the surrounding neighborhood is zoned R-55, single-family residential. The property is located in the Calvert Hills subdivision. The subject house was constructed in 1946, which predates the Zoning Ordinance and the subdivision dates to 1940. The property is regular in shape and has a total area of 6,737.5 square feet. The property is improved with a two-story brick single-family house, detached garage and driveway. The applicants have indicated that the existing concrete and asphalt driveway is in poor repair and the applicants are proposing to install a paver driveway with a portion consisting of paver tire strips with groundcover in the middle. There were no comments from the civic association or adjoining property owners. Staff recommends approval of a variance of 402.5 square feet or 6% from the maximum allowable lot coverage to permit the applicants to replace the existing driveway.

Elisa Vitale submitted the staff report and Exhibits 1-5 into the record. Commissioners accepted unanimously.

Robert Day asked what portion of the driveway would be ground cover?

Elisa Vitale stated that the interior portion of the driveway, which measures 4' x 41', would be ground cover.

Lawrence Bleau asked if the patio counts toward lot coverage?

Elisa Vitale stated that patios do not count toward lot coverage as long as you can't drive over or park on it.

Charles Smolka asked how long has the garage been on the property?

Elisa Vitale stated that it doesn't show up on the permit records and she doesn't know if it was there when the house was built.

Ana Lockett, agent for the applicants, with the Landscape Design Center, testified that she has been contracted to represent the applicants in the variance process and construction of the driveway. She stated that the driveway is in poor repair and will present a safety hazard if not repaired. She also stated that her clients have taken steps toward mitigating the impact of the driveway by planting permeable groundcover in the middle of the driveway to reduce stormwater runoff. She stated that the proposed driveway will be in character with other driveways in the neighborhood. Ms. Lockett submitted photos of driveways in the surrounding neighborhood, which were entered into the record as Exhibits 6a-6h and photos of sample driveways showing green space in the center of the driveway, which were entered into the record as Exhibits 7a-7d.

Mary Dugan and Mark Hoelk, applicants, testified that they spoke to two of their neighbors and they were in favor of any improvements that would improve the driveway. They also testified that the plat showed the garage on the property in the 1940s, when the house was constructed.

Lawrence Bleau asked Ms. Lockett if she agreed with staff recommendations in Criteria 1 about exceptional conditions.

Ana Lockett stated yes, because the driveway is existing and is in disrepair. She was curious as to why the driveway had to be approved if it already exists, and it is not being increased.

Lawrence Bleau asked if she wanted to add anything else to Criteria 2, in reference to the undue hardship?

Ana Lockett stated no, but if nothing is done to the driveway it will continue to deteriorate.

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

- 1) The property has an extraordinary situation in that the lot coverage violation is grandfathered, but for the need to replace the driveway due to its state of disrepair. Furthermore, testimony was given that the garage is a longstanding improvement on the property and was constructed in 1946, which predates Zoning in Prince George's County.
- 2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to the applicants by not allowing them to replace an existing driveway to access their garage. The existing garage was sited in such a way that a variance is required to construct a driveway of sufficient width and length to reach the garage. Additionally, the existing driveway is in a state of disrepair, which presents a safety hazard, and will continue to degrade if the applicants are unable to construct a replacement.
- 3) Granting the requested variance will not substantially impair the intent and purpose of the applicable County General Plan or County Master Plan because a reasonably sized driveway is not inconsistent with other properties in the surrounding neighborhood. The applicants are requesting the minimum variance necessary to gain access to the garage. Furthermore, the applicants are reducing the visual impact of the driveway by constructing a portion with paver tire strips with groundcover in the middle in lieu of a solid surface.

Timothy Dennée 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 7-0-0.

Public Hearing – Fence Ordinance

BPV-2007-01:	Reconsideration for validation for a permit issued in error
<u>Applicant:</u>	Sandro Baiza
<u>Location:</u>	3705 Marlborough Way

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Dorothy Friedman summarized the staff report. This case was remanded back to the Advisory Planning Commission by the Prince George's County Court of Special Appeals. The applicant was last before the APC October of 2007, when an evidentiary hearing was held. The hearing was to determine whether to validate City Building Permit No. 1640 for a retaining wall constructed in the front yard, which had been issued in error and revoked by the Director of Public Services. An engineering survey commissioned by the City determined that a section of the remaining wall had been built three feet within the City's right-of-

way. The APC voted to deny the applicant's request and the applicant appealed APC's decision to the City Council. The City Council upheld APC's decision and the applicant appealed the City's decision to the Circuit Court of Prince George's County where the City's decision was affirmed. The applicant then appealed to the Court of Special Appeals, which reversed the judgment of the Circuit Court. The Court of Special Appeals by opinion dated May 6, 2010 reversed and remanded the case to the Circuit Court and directions to vacate the decision of the City of College Park and remand the case back to the APC for further consideration. In the fall of 2010, the applicant removed the retaining wall within the right-of-way, regraded and seeded the front yard. Staff recommends approval of the validation for Building Permit No. 1640 only for the portion of retaining wall as currently constructed in the front yard.

Dorothy Friedman submitted the staff report and Exhibits 1-9 into the record. Commissioners accepted unanimously.

Benjamin Woolery, attorney for the applicant, testified that he received and discussed the staff report with Mr. Baiza. Mr. Woolery stated that he suggested that the APC approve the permit as applied for in 2007, provided the wall was not in the right-of-way. He stated that he does not know what Mr. Baiza's intentions are in reference to the retaining wall. He stated that there is no public interest at risk by Mr. Baiza being granted the permit as originally submitted.

Sandro Baiza, applicant, testified that the front of the house will stay the same and he will be removing the plywood board in front of the house after the foundation has settled and then he will be putting in grass. He would also like to keep the pillars on the side wall for safety reasons.

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

- 1) No fraud or misrepresentation have been practiced in obtaining the permit. The previous determination that there is no evidence of fraud or misrepresentation was not appealed and so is correct as a matter of law.
- 2) At the time of the permit's issuance, no appeal or controversy regarding its issuance was pending before anybody. The previous determination that no appeal or controversy was pending when the permit was issued was not appealed and so is correct as a matter of law.
- 3) The applicant has acted in good faith, expending funds or incurring obligations in reliance on the permit. The previous determination that applicant appears to have acted in good faith in reliance on his permits and has expended funds was not appealed and so is correct as a matter of law.

- 4) The validation will not be against the public interest. The modified masonry wall is of a more limited scope and character than the original construction and is generally in conformance in style and character with other walls located in front yards within this neighborhood. In addition, the portion of the wall in the front yard constructed within the City right of way has been removed. As now constructed, the wall does not interfere with the openness which is characteristic of the remainder of the neighborhood.

Robert Day moved to approve validation for Building Permit No. 1640 for the masonry wall as currently constructed in the front and side yard as shown in Exhibits 9A-F. James McFadden seconded. Motion carried 7-0-0.

VI. Discussion of Possible Meeting with City Council to Discuss Role of APC:

Commissioners and staff discussed the Advisory Planning Commissions role and how it should interact with City Council responsibilities. Staff will provide APC with documentation needed for them to submit their opinions to the City Council on specific projects that they are interested in reporting on.

The City has an opportunity to take on additional Planning and Zoning responsibilities including minor revisions to approved special exception site plans and certification of non-conforming uses. The City attorney is drafting the City's Ordinance and once it is drafted, it will be shared with APC.

The City of College Park Strategic Plan will be on next month's agenda for review. An e-mail, including the link to the City's website with the documents, will be sent out next week to all commissioners.

VII. Update of Development Activity

Chinese Bible Church – Have withdrawn their departure request, they are no longer seeking a waiver from parking spaces or loading. They are going to provide all the required on-site parking. They have filed a new Detailed Site Plan with M-NCPPC. The Planning Board hearing is scheduled for February 10, 2011. They will be before the City Council on January 18th and 25th.

Domain – Campus Drive and Mowatt Lane – Went before the City Council at its January 4, 2011, worksession. Next week there will be a motion to approve the Detailed Site Plan with 16 conditions. This property will be annexed into the City.

Mosaic at Turtle Creek – Have applied for a departure to further reduce the required number of parking spaces for the development. They will be before the City Council in mid February.

VIII. Election of Chair and Vice-chair

Timothy Dennée moved to have the current chair, Lawrence Bleau and Vice-chair Heidi Jones-Huffman continue in their positions for another year. Charles Smolka seconded. Motion carried 7-0-0.

IX. Other Business: Mary Cook asked staff questions in reference to code issues with respect to parking pads and patios.

X. Adjourn: There being no further business, the meeting was adjourned at 9:45 p.m.

Minutes prepared by Theresheia Williams