



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
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ADVISORY PLANNING COMMISSION
Approved Minutes of Meeting
June 6, 2013 – 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>
Charles Smolka	<u> x </u>	<u> </u>
Rose Greene Colby	<u> </u>	<u> x </u>

Also Present: Planning Staff- Terry Schum, Jonathan Brown, Miriam Bader and Theresheia Williams; Public Services Staff – Jeannie Ripley and Gilberto Cabrera; Attorney – Sue Ford.

I. Call to Order: Mary Cook called the meeting to order at 7:40 p.m.

II. Approval of Minutes:

Lawrence Bleau moved to accept the minutes of May 2, 2013, after the following corrections:

- 1) Page 2, paragraph 5 add “approval from the City Council” to the end of the paragraph.
- 2) Page 3, paragraph 9 change the word “widen” to “widened”.

Charles Smolka seconded. The motion carried 5-0-0.

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:

CPV-2013-03:	Variances to add roof to existing deck
<u>Applicant:</u>	Joyce and Andrew Jones
<u>Location:</u>	8705 48th Place

Mary Cook explained the hearing procedures and placed witnesses under oath. Jonathan Brown summarized the staff report. The applicant is requesting a variance of 9 feet from the required minimum front yard setback of 25 feet to 16 feet and a variance of 6 feet from the minimum required side yard setback of 8 feet to 2 feet. The property is rectangular in shape and has an area of 9,606 square feet. The front and rear property lines measure 60 feet and the side property line measures 160 feet.

The surrounding neighborhood is zoned R-55, single-family residential. The house was built in 1913 and is improved with a 2 ½-story single-family house, covered front porch, deck and concrete driveway. There is a new 23 x 18 ft rear deck that was constructed without a permit, which is 2 feet from the side yard. The existing house is not centered on the lot between the side property lines; it is slightly angled toward the southeast.

The Prince George's County Zoning Ordinance Section 27-442(e) Table IV, prescribes that the minimum depth/width in feet for a single-family detached dwelling is 25 feet for front yards, and a minimum of 8 feet for side yards. The existing home does not conform to current side yard setback requirements because it is only 3 feet from the side property line.

Staff recommends approval of the variances for the existing house and denial of the variance for the side yard setback for the deck and its proposed roof.

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

Clay Gump asked why is there a variance request for the front yard since the house has been there since 1913?

Terry Schum, Planning Director, stated that if the variance for the deck was not requested, code enforcement would not have cited the existing house for being in violation of the front and side yard setbacks because it is grandfathered in. But if you are requesting a variance for something new, it's a good idea to validate existing conditions.

James McFadden asked what is the current lot coverage situation?

Jonathan Brown stated that they are in compliance.

James McFadden asked if the deck had a roof, would they still be in compliance?

Jonathan Brown stated yes.

Andrew Jones, applicant, stated that the deck was built in 2006 and he wants to construct a roof over it. He had no idea that a permit was needed for the construction. He stated that other homes on his street also have covered decks. One of the adjoining property owners at 8703 48th Place sent an e-mail stating that he had no objection to the proposed addition.

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

Andrew Jones stated that having to remove the deck would be a financial hardship, because neither he nor his wife works full-time. He stated that the existing deck is in-line with the house and if it is moved, it would not look appealing.

Mary Cook asked counsel for the definition of peculiar or unusual practical difficulties.

Sue Ford, attorney, read the definition of peculiar or unusual practical difficulties from the Maryland Case Log, which states, “*Whether compliance with the strict letter of the restrictions governing area, set-backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.*” *Whether the grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation then applied for would give substantial relief to the owner of the property involved and would be more consistent with justice to other property owners; and whether relief would be granted in such a fashion that the spirit of the ordinance would be observed and the public safety and welfare secured.*”

James McFadden asked the applicant if he would be willing to start the roof line 8 feet from the side yard?

Andrew Jones stated that he would consider that if he could avoid removing the deck.

Clay Gump asked if the deck would be screened-in?

Andrew Jones stated no, it would be covered like a pergola with open lattice.

Clay Gump asked if there is a door going out of the house onto the deck?

Andrew Jones stated that there is a door and window.

Terry Schum asked the applicant how is the deck accessed?

Andrew Jones stated that it is accessed through the kitchen or by walking through the back yard.

Commissioners reviewed the criteria that need to be met before the variance can be granted in reference to the required minimum front yard and side yard setbacks for the existing house and the side yard setback for the deck and determined that:

- 1) The property has an extraordinary situation in that the house was constructed prior to the current zoning off center and at a skewed angle on the property and does not meet the front or side yard setback. The deck, however, was constructed more recently without a permit and does not meet current setback requirements, which is not an extraordinary situation.

- 2) The strict application of the County Zoning Ordinance for the principal structure will result in peculiar and unusual practical difficulties to or exceptional hardship upon the property owner in that they would have to move the existing house to meet the current requirements. However, the recently attached deck was not constructed to meet the current zoning ordinance requirements and does not meet the criteria for an unusual practical difficulty or exceptional hardship as the difficulties associated with removing the portion of the deck located within the setback stems from the self-created hardship of constructing the deck without permits. Further, the size of the remainder portion of the existing deck which would comply with setback requirements without a variance is reasonable, and thus a side yard setback variance is not necessary for the deck as no peculiar or unusual practical difficulty will be inure to the property owner without a variance.
- 3) The variance for the front and side yard setbacks for the existing house will not substantially impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. However, permitting a side yard setback variance to 2 feet to accommodate the deck would impair the intent, purpose and integrity of the County General Plan or County Master Plan in that such intent and purpose includes maintaining adequate space between structures on properties for air, fire prevention and aesthetics.

Clay Gump moved to approve the variance in reference to the house for a 9 foot front yard setback and a 3 foot side yard setback because the request meets the criteria for the reasons stated above. Charles Smolka seconded. Motion carried 5-0-0.

Clay Gump moved to deny the variance in reference to the deck because the request does not meet the criteria for the reasons stated above. Lawrence Bleau seconded. Motion carried 5-0-0.

CPV-2013-04: Variances to validate a widened driveway for parking in front yard

Applicant: Sirak & Meseret Teffera

Location: 4810 Nantucket Road

Mary Cook explained the hearing procedures and placed witnesses under oath. Jonathan Brown summarized the staff report. The applicants are requesting a variance to enlarge an existing single-car driveway to a double-wide driveway. The property is rectangular in shape and has an area of 5,500 square feet. The front and rear property lines measure 55 feet and the side property lines measure 100 feet. The property was constructed in 1954 and is improved with a 1-story brick single-family house, storage shed and concrete driveway accessed via the street. The surrounding neighborhood is zoned R-55, single-family residential. The original driveway was paved with asphalt to a length of 24 feet by 9 feet, accommodating 1 car. The driveway was widened by 11 feet by 20 feet on the eastern side in front of the house without obtaining a building permit.

Staff is recommending denial of the variance due to failure to meet the required criteria. Widening of the driveway apron requires approval by the City Council.

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

Clay Gump asked if there were any other houses in the neighborhood that had double-wide driveways?

Jonathan Brown stated that there were some.

Clay Gump asked if the driveway size could be increased as long as it didn't go over the 30% lot coverage?

Terry Schum stated that the City Code will only allow a single-wide driveway apron. To get a double-wide driveway apron requires the approval of the Mayor and Council, which is also called a variance. It also requires the signing of a maintenance agreement, where the future maintenance of the apron would be the property owner's responsibility.

Clay Gump asked if the photo in Exhibit 5 (front view of new driveway) was taken after the photo in Exhibit 8 (stop work order)?

Jonathan Brown stated yes, it was before the stop work order.

Charles Smolka asked what is the standard size for a 1-car driveway?

Terry Schum stated that the City standard width is 10-feet wide plus to the driveway apron, which is flared.

Sirak Teffera, applicant, testified that the stop work order was issued on May 3, 2013. He did not know a permit was required because the driveway was existing. His contractor did not indicate that they needed a permit. When they saw the stop work order, they moved the dirt to the side, but they did not do any more work. He stated that there is a lot of traffic on their street. Mr. Teffera submitted photos of other homes on the street with double-wide driveways, which was entered into the record as Exhibits 9a-9c.

Jeannie Ripley, Code Enforcement Manager, stated that the applicant dumped the concrete and finished it after the stop work order was issued.

Clay Gump asked the applicant if he installed the addition on the back?

Sirak Teffera stated yes, sometime during the end of last year.

Mary Cook asked if they had obtained permits from the City to build the addition?

Sirak Teffera stated yes.

Jeannie Ripley stated that they also obtained a permit for the deck.

Mary Cook asked why wasn't a permit obtained for the driveway?

Sirak Teffera stated that he was misled by the contractor and was under the impression that they did not need one since they were just improving the existing driveway.

Messeret Teffera, applicant, stated that she parks on the street and it's not safe. Sometimes she can't find a parking space. She stated that she feels safer when she parks in the driveway. She stated that cars speed up and down her street. She stated she and her husband leave at different times and it is an inconvenience to keep moving the cars around.

Charles Smolka asked if the contractor mentioned getting a permit?

Messeret Teffera stated no, even after the sign was posted, he said there was nothing he could do.

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

- 1) There is no exceptional narrowness, shallowness, shape, topographic conditions or other extraordinary situations or conditions related to the property. It is similar to other properties in the neighborhood.
- 2) The strict application of the County Zoning Ordinance will not result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon the property owner. The Property had a standard-size driveway. While the Applicant will have to remove the expanded portion of the driveway, this hardship is self created as the work was done without a permit such that the removal of the non-permitted improvements should not be considered an exceptional or undue hardship.
- 3) Granting the requested variances would impair the intent of the Master Plan. The Code of the County prohibits driveways in the front of houses where they do not connect to a garage or parking and a double-wide driveway is not characteristic of the neighborhood and results in excessive lot coverage.

Lawrence Bleau moved to deny the variance from the parking area requirement and the variance for 4% from the maximum allowable lot coverage because the requests do not meet the criteria for the reasons stated above. Clay Gump seconded. Motion carried 5-0-0.

**13-0737, 13-0738 &
13-0740**

Waiver of Sections 125-8(C)-(2), 125-10 N and 125-25-D

Applicant:

Karen & Donald Needles

Location:

6904 Carleton Terrace

Mary Cook explained the hearing procedures and placed witnesses under oath. Jeannie Ripley, Code Enforcement Manager, presented the staff report on behalf of Code Enforcement Officer Derek Daves who initiated the violation and prepared the report but was unable to attend the meeting. Ms. Ripley testified that the property is owned by Karen and Donald Needles. The subject property is zoned R-55, single-family, detached residential. She stated that complaints from neighboring residents were forwarded to the Code Enforcement Division by the City Manager. An exterior inspection revealed the following violations: 1) damage to exterior retaining wall along the driveway of the property; 2) storage of household items at the front porch and 3) peeling paint on the exterior wood of the house. The property was cited and issued violation notices dated April 5, 2013. An appeal from the applicant was received on April 16, 2013. Ms. Ripley submitted photos of the property that were entered into the record as Exhibits 1G-II.

Karen Needles, appellant, testified that she is a caregiver for her husband who had a stroke and they are living on Social Security. She stated that the retaining wall has been looked at and is stable, but the bricks and mortar are damaged. She is in the process of putting the bricks back up. She stated that it is difficult to access the gable windows for repainting. The upstairs windows and the wood around them are going to be replaced, which are about \$160 a piece. The roof is a slate roof, so she is trying to figure out how to get it done without damaging the roof. The truck will not fit in the garage. Until she can get the truck repaired and fixed she will purchase a truck cover to put over the truck. The items that were cited for being on the curb, were there waiting to be picked up by bulk pick-up.

Jeannie Ripley stated that the City does not allow truck covers, but she could get an antique tag from the Department of Motor Vehicle to put on the truck to bring it into compliance.

Karen Needles stated that she have the decorative bricks for the retaining wall, and need to install one more layer. She is hoping to have the retaining wall completed by the end of June.

Jeannie Ripley stated that it is not required to put up decorative bricks, but if they are already purchased it would look better.

Lawrence Bleau moved to withdraw City Code violation 125-10(N) pertaining to Citation 13-0740 because the household items have been removed from the front yard and there was no longer a violation. Charles Smolka seconded. Motion carried 5-0-0.

Lawrence Bleau moved to modify the order to grant a temporary waiver of 60-days to the provisions of City Code Section 125-8(C)-2 pertaining to the retaining wall as alleged in Citation 13-0737 to give the appellant time to address the violation. Clay Gump seconded. Motion carried 5-0-0.

Charles Smolka moved to grant a time-limited 120-day waiver to City Code 125-25 pertaining to peeling paint as alleged in Citation 13-0738 to give the appellant time to address the violation. Lawrence Bleau seconded. Motion carried 5-0-0.

13-0798 **Waiver of Sections 132-4(A)(1) and 132-8(A)**
Applicant: **Samuel Bronstein**
Location: **9026 Autoville Drive**

Mary Cook explained the hearing procedures and placed witnesses under oath. CEO Gilberto Cabrera summarized the staff report. The property owner is Samuel Bronstein. CEO Cabrera testified that there was an anonymous complaint received in June 2012. He then contacted the property owner and advised him of the complaint received to allow him time to remedy the situation. The property owner made some effort to correct the situation, but failed to complete the process. As a result, a violation notice to remove trash and debris from the property was issued on October 12, 2012. CEO Cabrera allowed the property owner several months to correct the violations as the amount of materials was excessive. A follow up inspection on April 2013 found that the original violation as well as storage of additional debris now existed. A City of College Park Correction Order/Violation was issued on April 10, 2013. A letter of appeal dated April 12, 2013, was received by the Department of Public Services within the required timeframe.

Code Enforcement Officer Gilbert Cabrera took pictures on June 6, 2013, the date of the hearing, which were entered into the record as Exhibits 1E-1J.

Mr. Bronstein, appellant, was present during the APC hearing, but left before his case was called with no explanation or request for continuance or postponement of his appeal hearing.

Clay Gump moved to sustain the violation of Section 132-4(A) of the City Code pertaining to Citation 13-0798. Lawrence Bleau seconded. Motion carried 4-0-0.
Commissioner James McFadden was not present for the vote.

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

The Maryland-National Capital Park and Planning Commission (M-NCPPC) is sponsoring an interactive Town Meeting on “Plan Prince George’s 2035” on Saturday, June 15, 2013 at UMD Samuel Riggs IV Alumni Center from 9:30 a.m. – 1:00 p.m. For more information, contact 301-952-3594 or visit www.planpgc2035.com.

VII. Other Business: There was no other business.

Because of the 4th of July Holiday, the next meeting is scheduled for Thursday, July 11, 2013.

VIII. Adjourn: There being no further business, the meeting was adjourned at 9:37 p.m.

Minutes prepared by Theresheia Williams