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
May 7, 2015 – 7:30 P.M.
City Hall – Council Chambers

Members	**Present**	**Absent**
Mary Cook, Chair	x	
Lawrence Bleau	x	
James McFadden	x	
Rose Greene Colby	x	
Christopher Gill, Vice Chair	x	

Also Present: Planning Staff -Terry Schum, Miriam Bader and Theresheia Williams; City Attorney's: Suellen Ferguson and Sue Ford

I. **Call to Order:** Mary Cook called the meeting to order at 7:35 p.m.

II. **Approval of Minutes:**

Lawrence Bleau moved to accept the minutes of April 6, 2015. James McFadden seconded. The motion carried 4-0-0.

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:**

CPD-2014-01:	**Remand to Take Further Testimony, Allow Public Comment and Reconsider the Decision for a Departure of 11.4 feet from the Required 22-foot Driveway Width**
Appellant:	**Steve Behr**
Location:	**4618 College Avenue**

Mary Cook explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. On December 4, 2014 the APC recommended to the City Council that this departure be approved with conditions. The City Council held oral argument on January 27, 2015 and issued a remand order to the APC to take further testimony, allow public comment and reconsider their decision. The City Council determined that the APC needs to address additional criteria from the Prince George's County Zoning Ordinance, Section 27-239.01(b)(7)(A) and to review their condition with respect to no parking in the driveway to include the joint driveway property located at 4620 College Avenue.

The applicant is proposing a departure of 11.4 feet from the required 22 foot wide commercial driveway width required for a rooming house. The existing gravel driveway is 10.6 feet wide at its narrowest point on the subject property plus 6-feet on the neighboring property for a total width of 16.6 feet wide at the narrowest point. There is a joint driveway agreement with the adjoining eastern property owner at 4620 College Avenue.

Remand Issue #1
The following finding is required prior to granting a departure from design standards:

- *The Departure will not impair the visual, functional or environmental quality or integrity of the site or the surrounding neighborhood.*

The requested variance will improve the current driveway. The applicant plans to narrow the existing driveway in the front so it will not encroach in front of the house and provide new gravel.

Staff went to the site and surveyed the existing driveways on College Avenue from Hopkins Avenue to Rhode Island Avenue. There are 11 structures on this block. Five located on the north side of College Avenue and six located on the south side of College Avenue. Five of the eleven structures have no driveway on College Avenue. Two properties are served by 11-foot wide gravel driveways and four properties are served by joint gravel driveways, including the subject driveway. Staff concludes that the subject driveway and departure will not impair the visual or environmental quality or integrity of the site or of the surrounding neighborhood as long as the gravel used matches the gravel on adjacent properties (similar color and size).

Remand Issue #2
According to the Order of Remand, "The record demonstrates that there is a joint driveway agreement that allows use of the driveway by occupants of the applicant's property and of 4620 College Avenue ("adjoining property"). The APC has determined that a departure should be conditioned on "no parking" signs placed on the applicant's property along the driveway and at the entrance, to keep this narrow area open for the up to nine residents. There is insufficient evidence in the record to demonstrate that the occupants of the adjacent property will be controlled by this, and no signage is required or agreed to be posted along the adjacent property, so it is unclear how required compliance with this condition can be met, therefore calling into question whether the Sec. 27-239.01(b)(7) criteria are fulfilled."

As the condition is currently written, there is nothing to require no parking signage on the adjoining property, and no public mechanism to prevent the adjoining property owner and/or tenants from parking cars on their side of the driveway. Staff recommends that the Joint Driveway Agreement be amended to grant Prince George's County and the City of College Park authority to enforce the provisions of the Joint Driveway Agreement that prohibit parking or blocking of ingress/egress in the driveway and to require no parking signage on the adjoining property, to ensure unencumbered ingress and egress along the portions of the driveway belonging to both applicant and adjoining property owner. Enforcement should include ability to

ticket and tow. This will also address compliance with the requirement set forth in Section 27-239.01(b)(7)(A)(iv) of the County Zoning Ordinance that the proposed departure not impair the functional quality or integrity of the site of the surrounding neighborhood.

Miriam Bader submitted he staff report and the following Exhibits into the record:
Exhibit #20 – Letter fom Joan and Clopper Almon opposing the requested departure.
Exhibit #21 – Letter from Kerry Kidwell-Slak opposing the requested departure.
Exhibit #22 – Letter from Eve Muller opposing the requested departure.
Exhibit #23 – PowerPoint presentation.

Steven Behr, applicant, testified that he has no problem complying with the gravel condition. He stated that he feels the condition to amend the joint driveway agreement is an over-reach of governmental authority.

Bradley Farrar, Shipley and Horne, testified that he was under the impression that all the issues were addressed at the December 4, 2014 meeting. He stated that the APC issued a recommendation to the City Council indicating that they considered all the design standards and the fact that parking/loading needs in residential areas would not be infringed upon if a departure is granted. He stated that there is a clause in the joint driveway agreement that prohibits parking in the joint driveway. It is Mr. Behr's and Ms. Miller's contention that once the departure is implemented, the narrower driveway would not permit anyone to park in the driveway because it would be impassible.

He stated that there is no need to amend an existing easement to restrict parking where the existing easement already restricts parking. The current grantors have demonstrated their ability to prohibit parking in the joint driveway area. There may be a detrimental impact on the value of the homes as it relates to the easement that allows both the City and County to come onto the properties and ticket and tow. Mr. Farrar asked that the APC approve the requested departure and allow the existing relationship between the two properties to currently exist as it stands.

Lawrence Bleau asked if either party had drafted an amendment for the driveway?

Bradley Farrar stated no, just the joint driveway agreement, which has existed since 2001.

Christopher Gill asked if there was any evidence indicating that the parking issue can be controlled?

Bradley Farrar stated that there is no evidence that there is a problem. He stated that no parking signs can be installed indicating that if you park in the driveway, you are subject to be towed.

Mary Cook asked if they have received a violation or municipal infraction regarding parking of any kind.

Steven Behr stated no their have never been a parking violation.

Suellen Ferguson stated that the City is not allowed to ticket for parking in a private driveway, so there would be no parking violations or municipal infractions issued for that purpose.

Mary Cook asked how long has he owned the property?

Steven Behr stated since 2006.

Christopher Gill asked if he has ever received a complaint from a tenant about another tenant parking in the driveway.

Steven Behr stated no.

Kathy Bryant, 7406 Columbia Avenue, testified that she live two blocks from the property. She stated that she is the president of the Old Town Civic Association and will be speaking on their behalf. The Old Town Civic Association held a meeting on Sunday, May 3rd to discuss this matter and the motion to express their opposition to granting the departure passed unanimously. She stated that tonight there are 11 residents from Old Town present and all of them oppose this departure. She stated that the residents of Old Town believe that granting the departure would in fact impair the functional integrity of the site and the visual, functional, and environmental quality of the surrounding neighborhood. She stated that parking is a significant problem in the neighborhood, due to the increasing use of many single-family houses that house more than 5 unrelated persons who often each have a car. When there is not sufficient accommodation for parking on the side, then the spillover parking detrimentally affects other residents. She stated that the amount of signage that would need to be placed along the driveway would impair the visual appearance of the property. Ms Bryant also testified that as a resident she has personal experience with shard driveways. She has a shared driveway agreement with her neighbor; the neighbor does not honor the agreement. When she tries to enforce the agreement, she is subject to retaliation. Ms. Bryant stated that they believe that this departure would have an adverse impact on the Old Town neighborhood, and urge the APC to disapprove the request. Ms. Bryant submitted her testimony into the record, which was accepted unanimously as Exhibit 25.

Bob Schnabel, 7400 Dartmouth Avenue, testified that he is in opposition to the departure request. He stated that increasing the width of the driveway will not help the fact that the driveway is unavoidably narrow between the two houses. He also stated that there is a lot of spillover when there are conflicts over using the shared driveway and it is blocked or otherwise impassable. He stated that he visited the property that afternoon and there were 17 cars parked on the two properties (4618 and 4620 College Avenue), including in the driveway as well as in the parking area behind the two houses. Mr. Schnabel submitted the photographs he took into the record, which were accepted unanimously as Exhibits 24a-24c. He also entered his testimony, which was accepted as Exhibit 26.

Bradley Farrar stated that he objects to Exhibits 24a & 24b because there is a misrepresentation of the amount of cars shown in the photo. He stated that the testimony that was presented with the submission of the photos was not what they depicted.

Suellen Ferguson asked if he was objecting to the witnesses' testimony not the photographs?

Bradley Farrar stated yes.

Lawrence Bleau stated that he counted the cars and there are 14 cars in the photographs.

Bob Schnabel stated that there is an overlap in order to capture all the cars on the lot.

Mary Cook asked how many members were at the Old Town Civic Association meeting held on May 3rd?

Bob Schnabel stated approximately 10 members.

Lisa and Andy Miller, owners of 4620 College Avenue, testified that they are in support of the departure request. They have owned the property for 18 years and have never had a problem with cars parking in the driveway. Ms. Miller stated that Mr. Behr is a competent and good landlord. He puts a lot of work and maintenance into his property. She stated that she finds it insulting that no one has talked to her to find out if she has had any problems with parking while she has owned the property. Ms. Miller stated that she has four other houses that have shared driveways in College Park and has not had any problems with parking. Mr. Miler stated that he takes care of the gravel up keep and bills Mr. Behr. He usually grades-out the property about every two years and adds 10-15 yards of gravel. He stated that it is indicated in their lease that there is no parking in the driveway or your car will be towed.

Christopher Gill asked would they object to posting "no parking" signs?

Mr. Miller stated that he thinks it would be ugly. It would adversely affect the appearance of the property, but if the commission feels that it is necessary, they will comply.

Suellen Ferguson asked Mr. & Mrs. Miller what is there decision as far as amending the joint driveway agreement to include the requirements that staff has recommended to the APC?

Andy Miller stated that they are in favor of all the recommendations except granting the County, State or the City permission to come on their property.

The following additional people became parties of record in opposition to the departure request but did not speak or submit a letter: Dawn Dineen, 4715 Norwich Road; Kelly Lueschow-Dineen, 4715 Norwich Road; Wendy Child, 4512 Hartwick Road; Rick Koller, 4512 Hartwick Road; Petra Swartzlander, 7306 Princeton Avenue; Larry Swartzlander, 7306 Princeton Avenue; and Nigel Key, 4710 College Avenue.

At 9.24 p.m., Christopher Gil moved to go into closed session to confer with counsel. James McFadden seconded. Motion carried 4-0-0. The meeting reconvened at 9:54 p.m.

Christopher Gill moved to recommend approval of the requested departure of 11.4 feet with the required 22-foto driveway width (Section 27-563) with the following additional conditions:

1) The gravel shall match the color and type used on adjacent properties (similar color and size).
2) The Joint Driveway Agreement shall be amended to grant Prince George's County and the City of College Park authority to enforce the provisions of the Joint Driveway Agreement that prohibit parking or blocking of ingress/egress in the driveway and to require no parking signage on the adjoining property, to ensure unencumbered ingress and egress along the portions of the driveway belonging to both applicant and adjoining property owner. Enforcement should include ability to ticket and tow.

Mr. Gill further moved that the amended final resolution for departure application CPD-2014-01 be placed on the agenda at the June 4, 2015 meeting for final review and approval. James McFadden seconded. Motion carried 5-0-0.

VI. **Update on Development Activity:** There was no Update on Development Activity.

VII. **Other Business:** There was no Other Business.

VIII. **Adjourn:** There being no further business, the meeting was adjourned at 10:30 p.m.

Minutes prepared by Theresheia Williams