



**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 4, 2014 – 7:30 P.M.**  
**City Hall Council Chambers**

<u>Members</u>	<u>Present</u>	<u>Absent</u>
Mary Cook, Chair	_____x_____	_____
Clay Gump, Vice-Chair	_____	_____x_____
Lawrence Bleau	_____x_____	_____
James McFadden	_____x_____	_____
Rose Greene Colby	_____	_____x_____
Christopher Gill	_____x_____	_____

Also Present: Planning Staff- Terry Schum, Miriam Bader and Theresheia Williams;  
 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 August 7, 2014 after the following corrections were made:

- 1) Under Item I “Call to Order,” remove Lawrence Bleau and replace with Mary Cook.
- 2) Under Item VII #3, change to read “Rotate selected pages to landscape in electronic format.”

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:**

<b>CPV-2014-05:</b>	<b>Remand to the Advisory Planning Commission for further Review of the Application</b>
<b><u>Appellant:</u></b>	<b>Yaris U. Reyes Carbajal</b>
<b><u>Location:</u></b>	<b>5926 Bryn Mawr Road</b>

Mary Cook explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the case. This case was initially heard by the APC on Thursday, June 5, 2014. The APC recommended approval to permit a 6-foot high fence with the following conditions:

- 1) The finished side of the fence shall face outward.
- 2) The fence adjoining 5924 Bryn Mawr Road shall be placed two feet within the applicant's property line.
- 3) The fence may be wood board-on-board but shall not be a stockade fence nor chain-link.

The City Council requested Oral Argument on this case and held a public hearing on August 12, 2014. At the conclusion of the hearing, the City Council remanded the case to the APC in order to clarify the location of the variance and to accurately define the yards on the site plan since the yards were incorrectly identified at the June 5, 2014 meeting.

Miriam Bader presented a slide presentation that correctly defined the yards according to how the County would define them in this case including a color-coded diagram illustrating the locations of the front, sides, and back yards. The front yard is that part of the yard extending from the front of the house to Bryn Mawr Road. The west side yard is that area to the west of the house extending to the rear property line. This side yard is bounded by Bryn Mawr Road, the rear property line, and the west side of the house extended in both directions. The east side yard is bounded by Edmonston Avenue, the rear property line, and the east side of the house extended in both directions.

Miriam Bader submitted the Memo, proposed resolution and PowerPoint presentation into the record. Commissioners accepted unanimously.

Yaris Reys and Heisy Garcia, applicant's, testified that placing the fence two feet within their property line would create a negative impact on their property by reducing the property value and they would lose a significant portion of their property. They also presented a slide presentation showing other existing 6-foot high fences in the neighborhood. Ms. Garcia stated that there is an existing chain-link fence in their rear yard that is several feet within their property line. The fence acts as a retaining wall keeping the ground two feet higher on their side than the adjoining property's side. A four foot fence would only be two feet above the higher ground level, and this would be insufficient to provide the privacy and safety that they desire.

James McFadden asked if they have a recent survey of the property?

Heisy Garcia stated yes.

James McFadden asked how are they going to perform yard maintenance on the property if the fence is on the property line?

Heisy Garcia stated that they would do maintenance from the inside of their yard.

Terry Schum, Planning Director, stated that fences usually go on the property line. The applicants would, in effect, be giving up 2 feet of their property to their neighbor if they moved it and their neighbor would need to mow that portion of the lawn and care for it.

Sue Ford, Attorney, stated that APC doesn't have jurisdiction to determine if the fence should be on the line or not. The property owner is entitled to put the fence on the property line or at a different position within their property line.

The Commissioners discussed the Findings of Fact in Resolution 14-RR-06 and wanted the following to be included:

- 1.9 The accurate definition of the yards
- 1.10 The negative impact on the property value.
- 1.11 Applicant's PowerPoint slide showing existing 6-foot fences in the neighborhood
- 1.12 The height difference with the chain-link fence.

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

- 2.1 The property has extraordinary conditions. The property has an exceptional shape in that the property is a triangular-shaped corner lot along a busy street and the house is not oriented parallel to either street. This creates a situation in which the rear yard is very limited while the side yards take up most of the lot. A six-foot fence is permitted in the rear yard but front and side yards are only permitted to be four-foot high for corner lots. Also, the property has a significant grade change on the Edmonston Road side of the lot. The house is higher than Edmonston Road.
- 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 who ran onto Edmonston Road and he has been the victim of property crime at this address.
- 2.3 Granting the variance will not impair the intent, purpose or integrity of any applicable County General Plan or County Master Plan. In fact, the purpose of the 6-foot high fence is to protect the private and public health, safety, welfare and comfort by preventing accidents that can be caused by children and pets running from the property into the street. Also, the 6-foot high fence is requested as a deterrent from criminal activity, to protect the property owner's personal property and prevent trespassing.

Lawrence Bleau moved to approve the variance because the request meets the criteria for granting the variance for the reasons stated above with the following conditions:

- 1) The finish side of the fence shall face outward.
- 2) The fence may be board-on-board but shall not be a stockade or chain-link fence.

Christopher Gill seconded. Motion carried 4-0-0.

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

**University of Maryland Conference Hotel** – The current plans for the hotel call for a 12-13-story facility. The 3-acre site will include a hotel, conference space, upscale restaurant and retail, but excludes the streets. The streets will continue to be private streets allowing public access. The development is currently scheduled to be reviewed by the County Planning Board on December 18, 2014. This development will be a ground lease, so the land will not transfer to the private developer. Rent will be paid to the University of Maryland Foundation. The application has not been submitted or referred so no details are available. They are expected to submit their Detailed Site Plan in the coming weeks.

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

**VIII. Adjourn:** There being no further business, the meeting was adjourned at 9:05 p.m.

Minutes prepared by Theresheia Williams