



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
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ADVISORY PLANNING COMMISSION
Approved Minutes of Meeting
June 4, 2015 – 7:30 P.M.
City Hall – Council Chambers

<u>Members</u>	<u>Present</u>	<u>Absent</u>
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;
 Attorney: Sue Ford

I. Call to Order: Christopher Gill called the meeting to order at 7:45 p.m.

II. Approval of Minutes:

Lawrence Bleau moved to accept the minutes of May 7, 2015. Rose Colby 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 Hearings:

CNU-2013-05: Certificate of Nonconforming Use and Building for a Church in the R-55 Zone

Appellant: Church of God
Location: 8800 48th Avenue

Christopher Gill explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting Certification of Nonconforming Use in the R-55 zone for a church. The subject property, Rice Memorial Church of God, is located at 8800 48th Avenue. The church is located on one lot and a gravel parking lot is located on the other abutting lot. The church is located on a 0.27-acre or 11,631-square foot lot. The parking lot can hold a maximum of 10 cars. The church became nonconforming on August 30, 1993, when the County adopted an ordinance requiring a Special Exception for a church under certain circumstances, in this case, for churches located on a lot less than 2 acres in size.

There is no use and occupancy permit issued for the property; therefore, a public hearing is required according to Section 190-11 B (6). The required sign was posted on the site and written notice was mailed to all persons of record. The Planning Department has not received any additional requests to become a Person of Record for this application to date.

Certification of a nonconforming use requires the following findings: 1. The use must either pre-date the pertinent zoning regulation and been established in accordance with all regulations in effect at the time the use began; or, the use was established after the requirement was adopted and the District Council issued the permit in error. 2. There must be no break in operation for more than 180 days since the use became nonconforming.

The original deed for the property and building is dated March 1937. At this time, the 1930 Prince George's County Zoning Ordinance was in effect. The property was in a residential zone "A" and churches were a permitted use. The Prince George's County Zoning Ordinance's definition of "nonconforming use" clarifies that a building is deemed nonconforming and not illegal, if it fails to conform to the physical requirements of the zone. The applicant has submitted several documents as evidence to establish that there was no break in operation for more than 180 days since the use became nonconforming in 1993.

Staff supports that the subject building has operated continuously as a church with no break in operation since the initial date of nonconformance in 1993 and that the church is nonconforming and not illegal. Staff recommends that CNU-2013-05 be approved as a certified nonconforming use for a church and that a new Use and Occupancy Permit be issued to the current owner subject to the following conditions:

1. Reorient the site plan to face north or change the direction of the north area.
2. Correct the spelling of Tecumseh Street.
3. Indicate that the correct rights-of-way for the shown sections of Tecumseh Street and 48th Avenue.
4. Indicate that a maximum of 10 cars can be parked on the property.
5. Include a note that states: "Parking spaces shown are exempt from current number of parking spaces and design standards per Section 27-584 of the Zoning Ordinance."
6. Include a note stating the number of seats as 25 pews and use as a church.
7. Include a note stating the date of construction was 1924-1925 prior to the adoption of the first Zoning Regulations in 1928.
8. Include a note stating the date the use commenced as May, 1925.

Miriam Bader submitted the staff report, Exhibits 1-11 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

The applicant, Pastor Frederick Reynolds, testified that the previous owner gave him a book of the Church Seventy-fifth Anniversary Celebration held at the church location at 8800 48th Avenue. Pastor Reynolds read several paragraphs from the book, which addressed activity that had taken place at the church as far back as 1924. Pastor Reynolds submitted copies of the pages he read from the book into the record, which were accepted as Exhibit 12.

Christopher Gill asked how does the information from the book impact the nonconforming use?

Sue Ford stated that Prince George's County Zoning went into effect in 1928. If the commission finds that the church was constructed prior to 1928, the issues for the minimum front yard setback and side street yard setback would be irrelevant.

Pastor Reynolds also showed a copy of the original deed, which the commissioners reviewed. It was entered into the record as Exhibit 13. This is the only copy of the deed, so it was returned to the pastor to keep at the church.

Commissioners reviewed the evidence and testimony submitted and determined that:

1. The date the use commenced should be established as May, 1925 and indicated as such on the non-conforming use site plan.
2. Based on a preponderance of the documentary evidence submitted including transfers of property, records of financial activity, membership activity, gas and electrical bills, a letter from the water and sewer company and letters from church members, the church has been continuously operated with no break in operation for more than 180 days since the use became nonconforming on August 30, 1993.

Lawrence Bleau moved to approve the Certification of Nonconforming Use for CNU-2013-05 based on staff's recommendation and additional Exhibits entered into the record as certification of the use as nonconforming and not illegal. James McFadden seconded. Motion carried 4-0-0.

CPV-2015-01: Variance of Lot Coverage to Install a Crushed Stone Driveway
Appellant: Marc Pound
Location: 5014 Roanoke Place

Christopher Gill explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting a variance of 3.8% or 308 square feet to install a crushed stone driveway. The applicant purchased the property in September 2014. The property is predominantly rectangular in shape for a total square footage of 8,064. The subject house was constructed in 1937 and is improved with a 1.5-story single-family house, an enclosed front porch, an open rear deck, and a 125-foot long by 8.0-foot wide driveway, leading to a detached, rear garage. The detached garage and driveway were existing when the applicant bought the property. The front property line measures 50 feet, the rear property line measures 52.79 feet, the west side property line measures 152.80 feet and the east side property line measures 169.74 feet. The surrounding neighborhood is zoned R-55, single-family residential. The applicant's driveway is currently 8.0-feet wide. In order to meet the minimum driveway width standard, the driveway must be widened to 9.5 feet. Staff recommends approval of the lot coverage variance of 3.8% or 308 square feet from the maximum allowable lot coverage of 30% or 2,419 square feet.

Miriam Bader submitted the staff report, Exhibits 1-5 and the PowerPoint presentation into the record. Commissioners accepted unanimously.

Christopher Gill asked how was the requested 1.2% lot coverage calculated?

Marc Pound stated that the County arrived at that figure by calculating the distance of the garage from the back of the lot.

Miriam Bader stated that the figure could have come from the “not-to-scale” site plan that was originally submitted.

James McFadden asked if nothing was done to the driveway, would the property be in compliance? Does the grass strip between the concrete pavers count as part of the driveway?

Miriam Bader stated that the property would be in compliance and the grass strip does count as part of the driveway.

Rose Colby asked if there are any regulations when spreading gravel near the neighbor’s yard?

Miriam Bader stated that there are no regulations.

Lawrence Bleau asked if a condition could be added that the gravel be framed in to prevent spillage into the neighbor’s yard?

Miriam Bader stated yes.

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

1. The property has an exceptional condition. The Property is exceptionally deep with a detached garage located in the rear yard. This results in a driveway that is extraordinarily long.
2. The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to the property owner by either preventing him from meeting the driveway requirements or from graveling the entire length of the driveway. Leaving the driveway as-is will result in undue hardship by not being able to correct a problem with standing water and mud during heavy rains.
3. Granting the requested variance will not impair the intent and purpose of the applicable County General Plan or County Master Plan because the driveway will meet the minimum required driveway width and will be graveled to be consistent with the character of other driveways in the neighborhood.

James McFadden moved to approve the variance because the request meets the criteria for granting the variance for the reasons stated above with the condition that the gravel be framed in on both sides for the length of the driveway to contain gravel and prevent spillage. Lawrence Bleau seconded. Motion carried 4-0-0.

**CPD-2015-01: Departure of 14 Parking Spaces and 1 Loading Space for
an Eating and Drinking Establishment**
Appellant: Nando’s Peri-Peri Restaurant
Location: 7402 Baltimore Avenue

Christopher Gill explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicant is requesting a departure from Parking and Loading Standards for 14 parking spaces and 1 loading space for an eating and drinking establishment. The property is located in the northwest quadrant of the intersection of US 1 (Baltimore Avenue) and Knox Road.

According to the tax records, the primary structure was built in 1950. The subject property contains 3,237 square feet and has been used as an eating and drinking establishment for the past 60 years. Section 27-568. (a) (D) of the Prince George’s County Zoning Ordinance requires one off-street parking space for every 3 seats or a total of 35 parking spaces. The site is “grandfathered” for 21 parking spaces to accommodate the previous existing 63 seats.

An off-site loading space exists on Knox Road near the property. A 10-foot wide ingress-egress right-of-way was established between adjoining property owners to ensure that they would have a perpetual right of access to their properties. This is necessary to provide adequate emergency egress to occupants in case of fire. This alleyway is also necessary for firefighting access to the rear of these buildings and is used to store some trash and grease containers. The alley currently serves the following businesses: Nando’s and neighboring properties U. Mobile, Revo Nails & Spa, Jimmy John’s, Terrapin Pizza Mart and Terrapin’s Turf.

Nando’s submitted Departure Site Plan shows they are proposing to locate the following in the 10-foot alleyway: a grease containment bin (2.5-feet by 3.5-feet), 4 trash containers (3-feet by 5-feet) and the reinstallation of an existing gate to control access through the alley. The Fire Marshall has ordered posting of the alley with a “No Parking” sign. Currently, it is estimated that 300 people would need to use the alley for egress in the event of a fire.

Staff recommends approval of the requested departure of 14 parking spaces and 1 loading space and validation of the existing rear yard setback and lot coverage standards with the following condition that prior to issuance of a use and occupancy permit, the applicant shall revise their site plan as follows:

1. Dumpsters, grease containment bins, any electric transformers, or other obstructions shall only be located in the area approved by the Prince George’s County Fire/EMS Department’s Office of the Fire Marshal, which shall not exceed forty-eight (48) inches in width measured into the alley from the face of the exterior wall of the proposed Nando’s building.
2. Remove the fence gate in the alley.
3. Delineate the forty-eight (48) inches of approved encroachment area into the alley measured from the face of the exterior wall with paint or other markings so the area allowed for use is clear and provide appropriate signage on the face of the exterior wall indicating that parking in the alley is prohibited.
4. Show the entire alley subject to the 10-foot wide ingress-egress right-of-way and identify all adjoining property owners.

Miriam Bader submitted the staff report, Exhibits 1-3, PowerPoint presentation and a letter from the Prince George's County Fire/EMS Department, which was entered into the record as Exhibit 4. Commissioners accepted unanimously.

Matthew Tedesco, representing Nando's Peri-Peri, testified that they have worked closely with the planning staff and Bob Ryan. He stated that they will not have any parking in the alley and understand the importance of keeping as much of the alley clear as possible. He stated that after speaking with Prince George's County Fire/EMS Department, staff and Mr. Ryan, they have come to an agreement with respect to the use of the alley and will revise their plans to include those conditions.

Matthew Wampler, owner of Jimmy Johns, testified that there has been an issue with the alley for the past 5 years. He stated that he supports Nando's putting the dumpster in the alley. His only concern is who will be maintaining the alleyway. He stated that Jimmy Johns takes their trash over to the dumpster at Cornerstone Restaurant on Knox Road. Mr. Wampler stated that his landlord prefers not to have the gate to the alley replaced.

Christopher Gill asked if the alley is used by multiple owners?

Miriam Bader stated yes.

Lawrence Bleau asked if this departure would apply to this owner only?

Sue Ford stated that it is specific to this use and these conditions, but if another restaurant with the same amount of seats moves in, it will be applicable.

Lawrence Bleau asked if there is a fence/gate at the property now?

Miriam Bader stated yes, but it will be reinstalled once construction is completed.

Robert Ryan, Director of Public Services and appointed Assistant State Fire Marshall for the City, testified that he and the applicant met with the County Fire Department and came to an agreement in regards to the alley. Mr. Ryan stated that the fence will be redesigned to go against the flow of egress so it won't create a road block. He stated that there have been problems in the past keeping the alley clean and since the City enforces the property maintenance for the alley; it falls back on code enforcement to maintain.

Rose Colby asked why doesn't the property have to comply with the US 1 Corridor Sector Plan or submit a Detailed Site Plan?

Miriam Bader stated that since they are not expanding their foot print, then the interpretation by the County is that they do not have to submit a Detailed Site Plan.

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

1. There has never been on-site parking available at this location due to the manner in which this downtown building was constructed. There are 554 public parking spaces located within 500-feet from the property.

An off-site loading space exists on Knox Road near the property. This loading space has served area businesses for a number of years without adverse impact. To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points.

2. To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points. To protect the residential character of residential areas.
3. The departure of 14 parking spaces and 1 loading space is the minimum and maximum necessary. Physical limitations of the property prevent the applicant from providing parking and loading spaces on-site. The existing building covers the entire parcel and there is no undeveloped property contiguous to the subject property. There is a shared 10-foot alley immediate to the west of the subject property but it is posted as “No Parking” by order of the Fire Marshall.
4. This property is located in the downtown. Many businesses do not provide parking in this area. A parking district was created to encourage shared parking.
5. The lot is completely covered by the building. Parking and loading needs of adjacent residential areas will not be infringed upon because adequate off-street parking exists in the downtown area.
6. The property is located in the Downtown. The 2010 *Central US 1 Corridor, Approved Sector Plan and Sectional Map Amendment* further defines the subject property as located in the Walkable Node Character Area. The Sector Plan envisions this area with mandatory shop frontage and build-to-lines of zero feet to encourage an urban intensity of mixed uses to encourage pedestrian traffic. On-site parking lots are discouraged because they create gaps in the urban fabric. The Sector Plan envisions most of downtown parking to be provided by the parking garage. Granting the departure will support this goal and will encourage more walking and biking as an alternative mode of transportation
7. Public parking facilities which are proposed in the County’s Capital Improvement Program within the general vicinity of the property. The City provides Public Parking for the downtown.

Lawrence Bleau moved to approve the Departure because the request meets the criteria for granting the Departure for the reasons stated above with the condition indicated in the staff report. James McFadden seconded. Motion carried 4-0-0.

VI. Approval of Resolution for CPD-2014-01

Commissioners discussed the recommendation for resolution CPD-2014-01, which was heard at the May 7, 2015 meeting and voted 4-0-0 to approve the resolution with the following changes:

- Section 3, paragraph 5, change to read: “Parking and other obstructions shall be prohibited in the joint shared driveway for 4618 and 4620 College Avenue at all times. Parking shall only be permitted in the designated rear parking lots.”

- Section 3, paragraph 7, change to read: “To prohibit parking or other obstructions in the joint shared driveway in the front or side portions of the lots of 4618 and/or 4620 College Avenue.”

Rose Colby moved to approve the resolution for CPD-2014-01, with changes to Section 3, paragraph 5 and 7. James McFadden seconded. Motion carried 4-0-0.

VII. Request for Waiver of Variance Application Fee

After reviewing Mr. Bronstein’s request, the commissioners voted 4-0-0 to deny the Financial Hardship Waiver for his variance application for the property at 9026 Autoville Drive. The Commissioners found that there was insufficient evidence of financial hardship to substantiate the waiver.

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

WMATA – WMATA and Prince George’s County are talking to developers, designers and municipalities for comments on how to improve their RFP process. Because the Purple Line decision has not been decided, the amount of land available may be reduced.

IX. Other Business: There was no Other Business.

X. Adjourn: There being no further business, the meeting was adjourned at 9:20 p.m.

Minutes prepared by Theresheia Williams