



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
7401 BALTIMORE AVENUE, COLLEGE PARK, MARYLAND 20740
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ADVISORY PLANNING COMMISSION
Approved Minutes of Meeting
May 5, 2022

(Due to COVID-19 Pandemic, this was a Virtual Meeting)

<u>Members</u>	<u>Present</u>	<u>Absent</u>
Stephanie Stullich, Chair	<u> x </u>	<u> </u>
Santosh Chelliah, Vice-Chair	<u> x </u>	<u> </u>
Daejauna Donahue	<u> x </u>	<u> </u>
Vernae Martin	<u> x </u>	<u> </u>
Kiersten Johnson	<u> x </u>	<u> </u>
Malaika Nji-Kerber	<u> </u>	<u> x </u>
Michael Meadow	<u> x </u>	<u> </u>

Also Present: Planning Staff – Miriam Bader and Theresheia Williams; Attorney – Suellen Ferguson

- I. **Call to Order and Amendments to Agenda:** Stephanie Stullich called the meeting to order at 7:32 p.m.
- II. **Approval of the Agenda:** Santosh Chelliah moved to approve the agenda as posted. Daejauna Donahue seconded. Motion carried 6-0-0.
- III. **Approval of Minutes:** Kirsten Johnson moved to approve the minutes of April 7, 2022. Vernae Martin seconded. Motion carried 6-0-0.
- IV. **Public Remarks on Non-Agenda Items:** There were no Public Remarks on Non-Agenda Items.
- V. **CEO-2002-01** Variances to construct a 6-foot-high fence
Applicant: William Schmegel and Ekaterina Potapova
Location: 5011 Fox Street

Stephanie Stullich explained the hearing procedures and placed witnesses under oath. Miriam Bader summarized the staff report. The applicants are requesting a variance from the City and County Fence Ordinance to construct a 6-foot-high fence along an unimproved right-of-way considered to be a front yard. The property was built in 1934 and is improved with a 2-story, frame house. The property has street frontage along Fox Street and 50th Place, although 50th Place has not been improved. The applicants state that a 3-foot-high fence is not tall enough to adequately protect their property and create a private backyard.

The unimproved right-of-way appears to be part of the backyard. The proposed 6-foot-high horizontal-slat wooden fence with gaps will incorporate openness. There are no plans on the part of the City of College Park to pave the unimproved 50th Place.

Staff recommends approval of a 2-foot height variance from the Prince George's County Zoning Ordinance and a 3-foot height variance from the City Fence Ordinance to allow a 6-foot fence along approximately 50 feet of the unimproved right-of-way of 50th Place. Miriam Bader submitted the staff report, Exhibits 1-8, and the PowerPoint presentation into the record.

William Schmegel (Andy), applicant, testified that they were not aware that 50th Place was considered the front of the property. Mr. Schmegel stated that they are planning to have children and get a dog in the future and a 3-foot fence would not give them enough privacy. He also stated that he doesn't think the fence installation will impair the intent of the Master Plan.

Judith Campbell, 5006 Indian Lane, asked the applicant if they would be removing the chain-link fence at the back of their property? She stated that the fence has a lot of leaves and poison ivy growing around it, which looks unsightly.

William Schmegel stated that he thinks that the chain-link fence in the backyard is part of his neighbor's fence and they haven't decided on whether they will be removing the chain link fence.

Suellen Ferguson, City Attorney, stated that if the fence is on the property line, it can belong to either property owner. She stated that there is no way of knowing if the neighboring house claims ownership of the fence. This should be confirmed with the other owner because they may have a different position.

Stephanie Stulich asked if the case should be remanded until the next meeting to gather the facts on who owns the fence.

William Schmegel stated that the variance is not for that portion of the yard, just the side along the unimproved road.

Michael Meadow asked if they had hired a surveyor to come out to mark the property lines?

Miriam Bader stated that the survey that was submitted with the site plan (Exhibit 2) shows where the fence is located on the property line. It also shows the part of the yard that the variance request is for.

Judith Campbell asked if the tree will be removed when the new fence is installed?

Ekaterina Potapova (Kate) stated that they will discuss the tree with the contractors, but the tree has been there for a lot of years, and they are not planning on removing it.

Santosh Chelliah stated that a decision on the variance should be made without the issue of the backyard chain link fence because it is two separate issues unless the newly built fence will adjoin the current chain-link fence.

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

County Requirements:

- 1) The extraordinary situation is that 50th Place is an unimproved right-of-way, which makes it a front yard, even though there are no plans to improve it. The house was constructed well before the effective date of the Zoning Ordinance restrictions for which a variance is requested.
- 2) The strict application of the Zoning Ordinance will result in a practical difficulty for the Applicants by preventing them from enclosing what is effectively their rear yard with a 6-foot-tall fence on all sides. Having a 3-foot fence on one side only will impair the practical function and aesthetic of the rear year fence.
- 3) Granting this variance will not adversely impact the intent, purpose, and integrity of the applicable county general plan or county master plan and the City's Fence Ordinance. The Fence Ordinance and County plans were enacted to preserve and protect the character of residential neighborhoods, to support open front yards, and to increase safety by allowing access to emergency personnel. Because there are no plans for the unimproved right-of-way, which is the effective back yard of the Property, the increased height of the fence will not affect the residential neighborhood, or negatively impact front yards or emergency access.

Additional City Requirements:

- 1) Granting the variance will not impair the intent, purpose, or integrity of the Fence Ordinance. The proposed 6-foot high, wooden fence is compatible with the character of the neighborhood and impacts only the apparent back yard
- 2) The variance is consistent with the design guidelines adopted for the historic district, if applicable. The property is not in a locally designated Historic District.
- 3) The fence for which an appeal is requested incorporates openness and visibility as much as is practicable, provided however, that it shall not be constructed of chain link unless this material is consistent with the surrounding neighborhood. The proposed fence incorporates openness and visibility as much as is practical.

Michael Meadow moved to recommend approval of variance CEO-2022-01 based on staff recommendation and the criteria outlined in the staff report. Santosh Chelliah seconded. Motion carried 4-0-2, with Stephanie Stullich and Daejauna Donahue abstaining.

VI. Update on Development Activity – Miriam Bader reported on the following:

Trader Joe’s – This upscale grocery store will be opening on August 30th. The store will be located on the ground floor of The Aster Shopping Complex at Calvert and Guilford Road.

7131 Baltimore Avenue – At the June 2nd APC meeting, Tony Akaras, owner of 7131 Baltimore Avenue and his project team will make a presentation on the revised plans for the redevelopment of the site (formerly known as the District 3 Social House). APC will have the opportunity to weigh in with comments and Civic Associations will also be invited.

Terrapin House – On May 24, 2022, the developer will be before the Mayor and Council for their Preliminary Plan of Subdivision. The property is located on Rt 1 and Hartwick Road. They are looking at combining three lots into one. The proposed project will consist of 3 to 6 stories of mixed-use development with 175 apartments and ground-floor retail. Adequate public facilities and traffic impacts will be addressed.

ECOGrads – On May 24, 2022, the developer will be before the Mayor and Council for their Preliminary Plan of Subdivision. The Property is located at 8421 and 8429 Baltimore Avenue. The property is proposed for 7 stories, 123 apartments and 2,000 sf of retail.

VII. Other Business: There was no other business.

Stephanie Stullich and Santosh Chelliah will not be attending the July 7th meeting. It was suggested to move the meeting to Thursday, July 14th. Staff will follow up with members at the June 2nd meeting to confirm that this date is acceptable for everyone.

VIII. Adjourn: There being no further business, Michael Meadow moved to adjourn the meeting. Kiersten Johnson seconded. The meeting was adjourned at 8:48 p.m.

Minutes prepared by Theresheia Williams