



Office of the Mayor and Council
City of College Park
8400 Baltimore Avenue, Suite 375
College Park, Maryland 20740
Telephone: (240) 487-3501

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

Terri Kramer for
RE: **Case No. CPV-2020-03** Name: **MacGregor Investments, LLC.**
Address: 5002 Kenesaw Street, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:
April 28, 2020.

CERTIFICATE OF SERVICE

This is to certify that on **May 1, 2020** the attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
City Attorney
Applicant
Parties of Record

PG Co. DER, Permits & Review Section
M-NCPPC, Development Review Division
City Public Services Department

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CPV-2020-03, 5002
KENESAW STREET, COLLEGE PARK, MARYLAND, RECOMMENDING APPROVAL OF
A LOT COVERAGE VARIANCE FROM THE PRINCE GEORGE'S COUNTY ZONING
ORDINANCE SEC. 27-442 (C) TABLE II WHICH SPECIFIES A MAXIMUM LOT
COVERAGE OF 30% IN THE R-55 ZONE TO CONSTRUCT A STANDARD DRIVEWAY.**

WHEREAS, the City of College Park ("City") has, pursuant to §190-1 *et seq.* of the Code of the City of College Park ("City Code"), and in accordance with Sec. 27-924 of the Prince George's County Zoning Ordinance (hereinafter, "Zoning Ordinance"), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot coverage, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and

WHEREAS, the City is authorized by § 190-1 *et seq.* to grant an application for a variance where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and

WHEREAS, the Advisory Planning Commission ("APC") is authorized by §190-3 of the City Code to hear requests for variances from the terms of the Zoning Ordinance with respect to lot size, setback, and similar requirements including variances from Sec. 27-442 (c) Table II of the Zoning Ordinance, and to make recommendations to the City Council in connection therewith; and

WHEREAS, Sec. 27-442 (c) Table II of the Zoning Ordinance specifies a maximum lot coverage of 30% in the R-55 zone; and

WHEREAS, on March 8, 2020, Terri Kramer ("Applicant"), representing MacGregor Investments, LLC, submitted an application for a 5% or 231 square foot lot coverage variance in order to construct a 330 square foot (10 x 33) concrete driveway at 5002 Kenesaw Street, College Park, Maryland ("Property"); and

WHEREAS, on April 2, 2020, the APC conducted a hearing on the merits of the variance, at which time the APC heard testimony and accepted evidence, including the staff report, exhibits, and the staff presentation, with respect to whether the subject application meets the standards for granting a variance set forth in §190-4 of the City Code.

WHEREAS, based upon the evidence and testimony presented, the APC voted 4-0-0 to recommend the approval of the variance; and

WHEREAS, the Mayor and Council are authorized by §190-6 of the City Code to accept, deny or modify the recommendation of the APC or return the variance application to the Commission to take further testimony or reconsider its recommendation with respect to variance requests; and

WHEREAS, the Mayor and Council have reviewed the recommendation of the APC as to the application for a variance and in particular have reviewed the APC's findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed.

NOW THEREFORE, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CPV-2020-03 to approve a 5% lot coverage variance:

Section 1 Findings of Fact

- 1.1 The property is a small (54 feet by 92.68 feet), narrow, rectangular lot with an area of 5,006 square feet.
- 1.2 It has flat topography and poorly draining soil (Russett-Christiana-Urban land complex).
- 1.3 The property is improved with a two-story frame house with an attached garage and covered front porch constructed in 2019.
- 1.4 The house and immediate neighborhood are zoned R-55, single-family residential.
- 1.5 The houses on each side of the property have concrete driveways similar in appearance to what the Applicant has proposed to construct.
- 1.6 The size of the lot is relatively small. The five adjoining properties have the following lot square footages: 5001 Kenesaw St. – 6,250 square feet 5004 Kenesaw St. – 5,885 square feet 5005 Kenesaw St. – 10,000 square feet 9533 Rhode Island Ave. – 6,579 square feet 9535 Rhode Island Ave. – 9,375 square feet.
- 1.7 Prince George's County issued a building permit in 2019 for a new house including the use of grass pavers (reinforced grass) in place of a paved driveway. According to the detail submitted with the building permit, the driveway was to consist of two 2-foot wide pervious grass pavers separated by a 6-foot wide strip of grass. This permit was issued in error as the driveway area was not included in the lot coverage calculation.
- 1.8 Pervious grass pavers (reinforced grass) consisting of compacted soil, filter fabric, number 57 stone, topsoil, and sod were constructed but failed to drain sufficiently, creating a muddy environment and soil erosion issues.
- 1.9 Kenesaw Street is paved to within one foot of the property line necessitating that the apron be located on the Petitioner's private property. The apron is approximately 72.54 square feet or 1% of the lot area.

- 1.10 The Applicant wishes to construct a concrete driveway between the existing concrete apron and attached garage.
- 1.11 The new Zoning Ordinance has increased lot coverage by 5% to 35% but is not yet effective

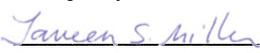
Section 2 Conclusions of Law

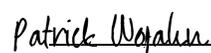
- 2.1 The property has an extraordinary situation because the narrowness of the street right-of-way caused the apron to be built on private property, thereby counting against lot coverage. The combination of the flat topography and poorly draining soil results in an environment that is muddy when pervious pavers are used. The relative smallness of this lot further limits the property owner’s alternatives.
- 2.2 The strict application of the zoning ordinance will result in practical difficulties to the property owner by preventing the construction of a functional driveway between the curb cut and an attached garage.
- 2.3 Granting a lot coverage variance of 231 square feet or 5% will not impair the intent, purpose and integrity of applicable plans. The proposed concrete driveway, to align with the existing concrete apron, will improve the appearance of the neighborhood by eliminating the muddy areas and will better match the surrounding properties.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park to approve CPV-2020-03 for a 5% lot coverage variance to allow the construction of a standard driveway (10 feet by 31 feet).

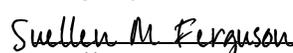
ADOPTED, by the Mayor and Council of the City of College Park at a regular meeting on the 28th day of April, 2020.

CITY OF COLLEGE PARK

DocuSigned by:

 Janelle S. Miller, CMC
 City Clerk

DocuSigned by:

 Patrick Wojahn, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

DocuSigned by:

 Swellen M. Ferguson
 City Attorney