



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
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ADVISORY PLANNING COMMISSION
MINUTES OF MEETING
July 7, 2011 – 7:30 P.M.

PRESENT: Advisory Planning Commission – Lawrence Bleau, Robert Day, James McFadden, Charles Smolka and Timothy Dennée; Planning Staff – Terry Schum, Elisa Vitale and Theresheia Williams

I. Call to Order: Lawrence Bleau called the meeting to order at 7:30 p.m.

II. Approval of Minutes:

Charles Smolka moved to accept the minutes of April 7, 2011. James McFadden seconded. The motion carried 4-0-0.

III. Amendments to Agenda: A Departure from the required Parking Spaces submitted by Delta Delta Delta (CPD-2011-01) was scheduled to be on the agenda, but the applicant sent a request to have the case continued until the September meeting. Timothy Dennée moved to postpone the departure until the September 1, 2011 meeting. Lawrence Bleau seconded. The motion carried 4-0-0.

IV. Public Remarks on Non-Agenda Items: There were no Public Remarks on Non-Agenda Items.

V. Public Hearings:

CPV-2011-01:	Variance from front and side yard setbacks to construct a porch and attached garage
<u>Applicant:</u>	Ilan Lagziel
<u>Location:</u>	9511 49th Place

Lawrence Bleau explained the hearing procedures, placed witnesses under oath and announced that Commissioner Robert Day joined the meeting. Elisa Vitale summarized the staff report. The applicant is requesting a variance of 4 feet from the minimum required front yard depth of 25 feet and a variance of 3 feet from the minimum required side yard depth of 8 feet. The requests are to allow the applicant to construct a six-foot deep front porch and a 13-foot by 20-foot attached garage. The property is zoned R-55 and is a single-family home located in the Hollywood subdivision. The property is regular in shape with an area of 7,812.5 square feet and is improved with a one and one-half-story single family home and driveway. The existing home was constructed in 1946, which predates the Zoning Ordinance. There is an existing 3-foot deep uncovered front stoop that encroaches 1-foot into the front yard setback. The existing home is sited two feet from the building restriction line. The northern side yard, where the applicant is proposing to construct the garage, has a depth of 18 feet and the southern side yard has a depth of 14 feet. The applicant received a stop work order on May 27, 2011 for work without a permit for replacement of a deck at the rear of the property. The applicant could construct a detached garage that meets the zoning requirements,

but he has indicated that he would prefer an attached garage that will provide direct access to the living space. Construction of an attached garage will minimize lot coverage because the garage will be built partially on top of the existing driveway. The North College Park Citizens Variance Committee indicated that they are not opposed to the request for the variance from the front yard setback and have taken no position on the request for the variance from the side yard setback. The committee did express concerns that flammable materials may be stored in a garage, and with the requested variance, the garage would be close to the adjoining property. Staff recommends approval of a variance of 4 feet from the minimum required front yard depth of 25 feet and a variance of 3 feet from the minimum required side yard depth of 8 feet to allow the applicant to construct a 6-foot deep front porch and a 13-foot by 20-foot attached garage.

Elisa Vitale submitted the staff report and Exhibits 1-6 into the record. Commissioners accepted unanimously.

Lawrence Bleau asked how far behind the build line is the house?

Elisa Vitale stated that the front façade is at 27 feet, so the applicant could construct a 2-foot front porch without the need for a variance, but it would not be enough room for functional space.

The applicant, Ilan Lagziel, testified that he would like to construct the porch to improve his home and to have someplace where he can sit and watch his children playing in the front yard. The existing front stoop does not provide an adequate seating area. He stated that the house was in foreclosure when he purchased it and he would like to improve the property. The applicant stated that he spoke to several of his neighbors, who did not object to him constructing a front porch. The property does not have a side entrance, so he would install a door to provide access from the garage to the house. He stated that he would like to install the garage so that when it is snowing or too hot, he can exit the car and go directly into the side door of the house. The applicant stated that there are a lot of houses on 49th Place that have front porches.

Lawrence Bleau asked what would the hardship be if the garage was not approved?

Ilan Lagziel stated that he would have to walk from the side of the house around to the front door to enter the house.

Lawrence Bleau asked what would the hardship be if he could not construct the front porch?

Ilan Lagziel stated that it would limit his ability to enjoy the nice weather in the front of the house and to watch his children out front playing.

Lawrence Bleau asked if there are any other properties that have garages on the side of the house?

Ilan Lagziel stated no, not attached.

William Ludwig, 9524 Rhode Island Avenue, testified that he lives behind the applicant. He stated that the proposed plan seems excessively large for such a small lot. Mr. Ludwig does not think that the existing 6-foot high fence in the rear of the home is characteristic of the neighborhood. He would also prefer that the garage be set back from the street. He stated that he had no objection to the porch. Mr. Ludwig submitted a written statement into the record, which was entered as Exhibit 7.

Seth Weene, 9512 49th Place, testified that he has been a contractor for 23 years and is always in favor of anyone who wants to improve their property. He does not object to the requested variance, he just wants the applicant to follow the correct procedure.

Commissioners reviewed the criteria that need to be met before the variance can be granted with regard to the request for a variance of 4 feet from the minimum required front yard depth of 25 feet to allow construction of a 6-foot deep porch and determined that:

- 1) The property has an extraordinary situation in that the existing home, which was constructed in 1946 and predates Zoning in Prince George's County, is sited two feet from the building restriction line. This limits the applicant's ability to construct a functional front porch that can accommodate seating without the need for a variance.
- 2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to the applicant because the existing home was sited in such a way that a variance is required to construct a porch of sufficient depth to be functional.
- 3) Granting the requested variance will not substantially impair the intent and purpose of the applicable County General Plan or County Master Plan because a reasonably sized porch is not inconsistent with other properties in the surrounding neighborhood.

Robert Day moved to approve the variance because the request meets the three criteria for granting the variance for the reasons stated above. James McFadden seconded. Motion carried 4-1-0, with Lawrence Bleau voting nay.

Commissioners reviewed the criteria that need to be met before the variance can be granted with regard to the request for a variance of 3 feet from the minimum required side yard depth of 8 feet to allow construction of a 3-foot by 20-foot attached garage and determined that:

- 1) Although there is sufficient depth in the northern side yard for the applicant to construct a 10-foot wide attached garage without the need for a variance, the structure's functionality and aesthetics would be compromised. A 10-foot wide garage could accommodate a small vehicle but the front façade would be dominated by the roll-up door with little room for trim and clearance on the sides. To construct a detached garage that meets the required 60-foot setback from the front property line, the Applicant would be required to extend the existing driveway thereby increasing the impervious surface on the property.
- 2) Although detached and attached garages are both found in the neighborhood, the construction of an attached garage will provide direct access to the living space for the applicant and will not require extension of the driveway and an increase in impervious surface. Furthermore, construction of an attached garage preserves the rear yard of the property for enjoyment by the applicant.
- 3) Granting the requested variance will not substantially impair the intent and purpose of the applicable County General Plan or County Master Plan because an attached garage is not inconsistent with other properties in the surrounding neighborhood. The Applicant is minimizing lot coverage by constructing an attached garage that covers a portion of the existing driveway. Furthermore, the applicant is reducing the visual impact of the garage by setting it back 10 feet from the front façade of the existing home. The garage will be clad in the same material (roof and siding) as the existing home.

James McFadden moved to approve the variance because the request meets the three criteria for granting the variance for the reasons stated above. Robert Day seconded. Motion carried 3-2-0, with Lawrence Bleau and Timothy Dennée voting nay.

11-00000977: Appeal of violation notice for location of inoperative vehicles without current license plates

Appellant: Joseph Boschulte
Location: 5010 Navahoe Street

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Code Enforcement Officer, Robert Cofske, summarized the staff report. At the end of March, 2011, Officer Cofske received information that the appellant, Mr. Boschulte, was storing inoperative vehicles without current licenses plates on his property. He investigated and found that the information was correct. Mr. Boschulte was sent a notice of violation dated April 1, 2011 for the vehicles

without licenses plates and asked that they be removed from the property or stored inside an enclosed garage. On April 8, 2011, Mr. Boschulte filed an appeal of violation Section 125-10(I) of the City code.

Timothy Dennée asked if there is a point where a vehicle becomes just parts and is no longer considered an automobile?

Robert Cofske stated that would be up to the commission to decide.

James McFadden asked what the property is zoned?

Robert Cofske stated R-55.

Joseph Boschulte, appellant, testified that he has been a resident of College Park and the Lakeland community since 1997. He stated that when he purchased the property, he was informed that it was permissible to store wrecked, dismantled and/or not-currently licensed vehicles on the property because the property was zoned Commercial and Residential (CR). He stated that he has always been a car enthusiast and owned multiple vehicles, which was a part of his decision to purchase the property. Mr. Boschulte stated that he lost his job in 2009, so his passion for automobile repair became a way to supplement his income until his job status had improved. He stated that the cars on his property are not visible from Navahoe Street and he has a six-foot privacy fence around his yard. There is no excessive noise or customer traffic brought into the neighborhood because all transactions are made via phone or internet. He stated that he just recently started working again and plans to relocate the vehicles to a location that better accommodates commercial.

Charles Smolka asked what time frame would be needed to remove the vehicles?

Joseph Boschulte stated that he would need around 5 to 6 months to transition the move. Moving the vehicles will also incur a new expense, which he would have to prepare for, but he wants to satisfy the community.

Robert Day asked if there was any way of finding out if there were any rezonings of the property?

Terry Schum, Planning Director, stated that there have been no individual rezonings of the property on record or any comprehensive rezoning of the area since 1989.

Timothy Dennée asked the appellant if he was contesting that the violation notice was issued?

Joseph Boschulte stated that he is not disputing that fact. He stated that up until the citation was issued, he did not realize that it was illegal to store the vehicles on his property`.

James McFadden asked, at the present time, how many cars are stored outside of the garage?

Joseph Boshulte stated that there are 6 vehicles stored outside of the garage.

Dorethea Huston, 5014 Navahoe Street, testified that she is the agent for her deceased aunt who sold the property to the appellant in 1997. The property has been in her family since 1906. The property had a history of commercial use because her grandfather used the property as a carnival business back in the 1900's.

Lawrence Bleau asked, at the time of sale, if she knew what the zoning was?

Dorethea Huston stated that, at the time of the sale, the property was zoned commercial/residential.

Lawrence Bleau moved to deny 11-00000977 based on the evidence presented and the staff report submitted by Code Enforcement Officer Robert Cofske. Robert Day seconded. Motion carried 5-0-0. The appellant is required to remove all vehicles that are inoperable, dismantled, wrecked or without current license plates from the property located at 5010 Navahoe Street, College Park, within 30 (thirty) days after July 8, 2011.

11-00001533: Appeal of violation notice for failure to cut/remove all tall grass, weeds, briar, brush and/or dead trees

Appellant: Thomas Willoughby

Location: 4609 Clemson Road

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Code Enforcement Officer, Derek Daves summarized the staff report. The subject property is located in the R-55 zone and is a single-family residential dwelling. The violation was noted on May 5, 2011 as part of an area survey. A notice of violation was issued from Section 125-10(j) for failure to cut tall grass, weeds and overgrown vegetation/ivy on the house. Several violation notices including municipal infraction citations for tall grass, weeds and overgrowth were issued in 2004. On November 29, 2006, the City was granted an abatement order for removal of overgrowth on the property. The appellant submitted an appeal on May 13, 2011, and requested a 90-day extension for compliance, which was granted until July 1, 2011. As of July 1, 2011, the items cited in the violation notice dated May 5, 2011 had not been corrected. Officer Daves submitted photographs indicating the subject property currently has tall grass, weeds, overgrown vegetation and ivy which were not removed within the original 90-day extension period.

Lawrence Bleau asked if the appellant was notified by certified mail?

Derek Daves stated yes, the appellant was notified.

James McFadden asked if the ivy was considered a safety issue?

Derek Daves stated that it covers the address and the only visible thing on the house is the door.

James McFadden asked if the house was occupied and if the occupants were elderly?

Derek Daves stated that the house was occupied and the occupant is elderly. He stated that this issue has been going on for quite some time.

Charles Smolka asked if the occupants had some type of disability that prevented them from bringing the property into compliance?

Derek Daves stated that he didn't know, he has never met the occupants.

James McFadden suggested calling the president of the civic association to have them contact the occupants to find out if they need assistance in removing the tall grass, weeds, and ivy to bring the property into compliance.

Lawrence Bleau moved to deny 11-00001533 based on the evidence presented and the staff report submitted by Code Enforcement Officer Derek Daves. Robert Day seconded. Motion carried 5-0-0. The APC affirms the notice of violation and required abatement of the violation contained within the notice of violation dated May 5, 2011.

VI. Discussion of quarterly report dated June 26, 2011 submitted by Bob Schnabel & Stephanie Stulich, 7400 Dartmouth Avenue.

Charles Smolka moved that the commissioners review the report submitted outside of the meeting and discuss any concerns at the next meeting or send any comments to staff. Timothy Dennée seconded. Motion carried 5-0-0.

VII. Other Business: Terry Schum reported on the following:

- The planning department will be preparing a newsletter every two months called the "Business Beat", which will include new businesses, closed businesses and new leases signed. Staff will e-mail a copy to commissioners when the newsletter is completed.
- The City has received an information notice that the Cafritz Property intends to file the first of a series of applications for rezoning and subdividing the property. They are proposing mixed-used development and the first phase would include a Whole Foods Market. Whole Foods has signed a lease contingent on opening in 2014.
- College Park Motel received financing to raze their building and start construction on their new hotel, which is going to be a Best Western.

- University of Maryland development partners for M Square are coming forward with a detailed site plan that includes three new 150,000 sf buildings. One would be in Riverdale Park and two would be in College Park.
- The Pattern Book is still in draft form and the committee is working on completing it. When completed, it will be a useful reference tool.

VIII. Adjourn: There being no further business, the meeting was adjourned at 9:30 p.m.

Minutes prepared by Theresheia Williams