



CITY OF COLLEGE PARK ADVISORY PLANNING COMMISSION
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ADVISORY PLANNING COMMISSION
MINUTES OF MEETING
December 1, 2011 – 7:30 P.M.

PRESENT: Advisory Planning Commission – Lawrence Bleau, Robert Day, James McFadden, Timothy Dennée and Mary Cook; Planning Staff – Terry Schum, Elisa Vitale and Theresheia Williams; Attorney – Sue Ford

I. Call to Order: Lawrence Bleau called the meeting to order at 7:35 p.m.

II. Approval of Minutes:

Robert Day moved to accept the minutes of October 6, 2011. Timothy Dennée seconded. The motion carried 4-0-0.

III. Amendments to Agenda: The following amendments were made to the agenda:

- Variance application CPV-2011-05 was withdrawn by the applicant on December 1, 2011.
- Item VI was deferred until a later meeting pending discussion with Prince George’s County.
- Appeal APC-CEO-0001-2011 was moved to the beginning of the public hearing agenda.

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

V. Public Hearings:

APC-CEO-0001-2011: Appeal for second means of escape from sleeping rooms.

Appellant: Andrew Moore

Location: 7201 Princeton Avenue

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Code Enforcement Officer, Derek Daves, summarized the staff report. A waiver of City Code Section 125-17(A) requirements for second means of egress from a sleeping room is being requested. Sleeping rooms are required, by the Life Safety Code as adopted by §125-17(A) of the City Code, to have a primary and secondary means of escape. The secondary means of escape may be an outside window or door operable from the inside without the use of tools, keys, or special effort and providing a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The structure is a four-story, 14-unit apartment building with seven one-bedroom units. In the one-bedroom units, the sleeping room measures 11-feet by 9-feet with two crank operated casement

windows measuring 16-inches by 36-inches. In the two-bedroom units, sleeping room number one measures 11-feet by 17-feet with two crank operated casement windows measuring 16-inches by 36-inches; sleeping room number two measures 10-feet by 13-feet with two crank operated casement windows measuring 16-inches by 36-inches. There are no fire escapes, but there is a limited non-standard sprinkler system in the basement utility/boiler room of the structure.

The property was most recently cited during an August 2011 annual inspection. To date, promises to correct the violation have not been fulfilled. City Residential Occupancy Permits have been withheld since 2005. In 2006, the property owner filed a request for a variance due to hardship with the Prince George's County Fire Department; that request was denied by letter on February 22, 2007. In 2008, the property owner explored several options available to install code compliant windows which would also meet Historic District requirements as the structure has been designated as a contributing property within the Old Town Historic District. No action has been taken to date. The Advisory Planning Commission accepted the staff report and exhibits into the record.

Lawrence Bleau asked what is a non-standard sprinkler system?

Derek Daves stated that it is a sprinkler system not up to current code and installed years before he started inspecting the building.

Andrew Moore, appellant, testified that the building was built in 1948 and was owned by the builder until he purchased it in 1976. He stated that the building is fire proof with concrete floors and ceilings with masonry walls surrounding every apartment. There is a sprinkler in the storage room, laundry room and furnace room in the basement. He also stated that under the Life and Safety Fire Code, it states that his building is grandfathered, with respect to the fire code. He stated that it is impossible for the building to maintain the historic appearance while meeting the fire code, because the casement windows are too small to meet the fire code regulations. Mr. Moore stated that to meet the fire code violations, he is willing to replace the small double casement windows (32" wide) with one that is one-sided, which would take care of all of the 1-bedroom apartments and 1 two-bedroom apartment. In the two-bedroom apartments, he proposes to replace the right-hand two 60" panels with a single 32" panel that would crank out and leave the left side as it is. Mr. Moore submitted Exhibits 4A-4C-photos of the apartment building, Exhibit 5-a letter dated December 22, 2006 from Robert Ryan, Director of Public Services and Exhibit 6-a section of the Life Safety Code. Commissioners accepted all exhibits into the record.

Lawrence Bleau asked if the metal bars were removed from the windows, would they comply with the City Code?

Derek Daves stated yes, if both sides could open. Mr. Daves stated that the appellant could also install a code compliant sprinkler system throughout the building and would not have to modify the windows.

Andrew Moore stated that if he installed a sprinkler system, he would have to run a water line and that could get expensive.

Timothy Dennée moved to deny the waiver for APC-CEO-0001-2011 based on the evidence presented and the staff report submitted by Code Enforcement Officer Derek Daves. Robert Day seconded. Motion carried 4-0-1, with Mary Cook abstaining. The appellant must provide to the APC proof of a fully executed contract to bring the windows into Code compliance within 60 days of the date of the decision, and must fully complete the installation of Code compliant windows in the subject property within 120 days of the date of the decision.

Commissioner Robert Day recused himself from hearing CPV-2011-06 because he was elected as City councilmember for District 3 and must abstain from voting on any hearings that will be before the City Council for final action.

CPV-2011-06: Variance to construct a 6’10” high fence and validate an existing carport
Applicant: Thalia Doukas
Location: 5809 Bryn Mawr Road

Lawrence Bleau explained the hearing procedures and placed witnesses under oath. Elisa Vitale summarized the staff report. The applicant is requesting a waiver of the rear and side yard setback requirements for fences greater than 6 feet in height and a variance of 3 feet from the minimum required side yard depth of 8 feet. The variance is to construct a 6-foot 10-inch high fence in the rear yard to enclose a swimming pool and to validate an existing carport. Section 27-420(a) of the County Zoning Ordinance requires that fences over 6 feet in height not be located in any yard and they also must meet the setback requirements for main buildings. The subject property is located in the College Park Estates subdivision. The surrounding neighborhood is single-family residential, zoned R-55. The property is slightly irregular in shape and has an area of 7,709 square feet. The home dates to 1960 and the subdivision dates to 1958. The property is improved with a split-level single family home, swimming pool, carport and driveway. The topography of the subject property is sloping. Carports are characteristic of the neighborhood and were constructed at the same time as the homes in the Estates. The existing carport encroaches 3 feet into the required side yard setback. Section 27-424 of the Zoning Ordinance requires that all swimming pools be enclosed by a fence at least 6-feet in height. The applicant has submitted letters of support from the property owners at 5807 and 5811 Bryn Mawr Road, 5717 Vassar Drive and 5808 Chestnut Hill Road. Staff recommends approval of a waiver of the rear and side yard setback requirements for fences greater than 6 feet in height 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 10-inch high fence in the rear yard to enclose a swimming pool and to validate the existing carport.

Lawrence Bleau asked staff to define “required yards?”

Elisa Vitale stated that required yards are the building setback requirements from the property lines. The front yard would be 25 feet and the required rear yard is 20 feet.

Thalia Doukas, applicant, testified that the pool needs to be surrounded by a fence that is at least 6-feet high. She stated that it was a challenge to keep the fence straight because of the slope of the property. She stated that the pool is located in the back corner on the right side of the property.

Elizabeth Fellows, 5807, Bryn Mawr Road, testified that the fence is beautiful and is a big improvement over the old fence left by the previous owners.

James Pennington, 5717 Vassar Drive, testified that he helped to install the original fence. He stated that the fence is the best fence in the neighborhood. The fence will also ensure safety to prevent anyone from accessing the pool.

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

- 1) The property has an extraordinary situation in that the Zoning Ordinance requires that a swimming pool be enclosed by a fence that is at least 6 feet in height and the Zoning Ordinance requires that fences over 6 feet not be located in any required yard and meet the setbacks for the main building. Furthermore, the topography of the property is sloping and the fence height must vary to maintain a straight fence line. The carport is an existing improvement that was constructed when the house was built in 1960.
- 2) The strict application of the County Zoning Ordinance will result in peculiar and unusual practical difficulties to the applicant because the topography of the property is varied and the applicant is required to provide a minimum 6-foot high fence. Given the applicant's desire to maintain a straight line along the top of the fence, it must exceed 6 feet in certain locations. Additionally, given the location of the pool in the rear yard, the fence cannot meet the setbacks required for a main building and must be located in the side and rear yards.

The carport is an existing improvement at the property that dates to the construction of the house in 1960 and it would be an unusual practical difficulty for the applicant to remove the carport or reduce its footprint to meet the side yard setback requirement.

- 3) Granting the requested variances will not impair the intent and purpose of the applicable County General Plan or County Master Plan because carports are consistent with other properties in the neighborhood and the Applicant is required to enclose the swimming pool with a fence at least 6 feet in height.

Timothy Dennée moved to approve the variance based on staff's recommendation and because the request meets the three criteria for granting the variance for the reasons stated above. Mary Cook seconded. Motion carried 5-0-0.

VI. Review of APC Responsibilities Related to new Municipal Zoning Authority Effective October 3, 2011:

This item was deferred until a later meeting.

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

1. **Maryland Book Exchange** – This application was continued at the request of the applicant. Initially, it was an indefinite continuance, but the applicant followed up with a letter to the Planning Board asking for a specific date of December 8, 2011. Staff attended the Planning Board meeting where the continuance was requested and granted by the Planning Board. Staff made it clear to the Planning Board that if the application was continued to this date, it was not possible for the City to change its position, because the City Council would not meet before then. The County's staff report is now available and they are recommending disapproval.
2. **Cafritz Property** – The City Council has not taken a position yet. It was before them on November 29 and they deferred it until December 6 for a possible special session. The Planning Board hearing is on December 15 at 1:00 p.m. Presently, the site is primarily trees, but the developer is proposing around 1,000 dwelling units, which include townhouses, senior housing, and apartments. They are also proposing 170,000 sf of retail, which includes a Whole Foods Grocery, fitness center, restaurants and small retailers. There will also be a proposed hotel and minor office uses.
3. **M Square** – The application has been reactivated, but a Planning Board hearing date has not been finalized.

VIII. Other Business:

Commissioner Mary Cook asked staff to research the regulations for Al-Huda School occupying a university out of their facility without a Use and Occupancy permit.

IX. Adjourn: There being no further business, the meeting was adjourned at 9:15 p.m.

Minutes prepared by Theresheia Williams