



**CITY OF COLLEGE PARK
 ADVISORY PLANNING COMMISSION
 7401 BALTIMORE AVENUE, COLLEGE PARK, MARYLAND
 Minutes of Meeting
 July 6, 2023
 7:30 p.m.**

<u>Members</u>	<u>Zoom</u>	<u>In-Person</u>	<u>Absent</u>
Stephanie Stulich	_____	___X___	_____
Santosh Chelliah,	_____	___X___	_____
Daejauna Donahue	_____	_____	___X___
Kiersten Johnson	_____	___X___	_____
Vernae Martin	___X___	_____	_____
Michael Meadow, Acting Chair	_____	___X___	_____
Malaika Nji-Kerber	___X___	_____	_____

Also Present: Planning Director – Miriam Bader; City Attorney – Suellen Ferguson; Executive Assistant – Moira Abernethy; Community Development Planner -Erik Valentine, Code Enforcer Officer-Lisa Llaneta, Director of Public Services- Bob Ryan.

- I. **Call to Order** – Ms. Stulich stated that Mr. Meadow, the co-chair, would chair this meeting, since her property was on the agenda. Mr. Meadow called the meeting to order at 7:36 p.m.
- II. **Amendments to the Agenda** – There were no amendments to agenda.
- III. **Approval of the Agenda** – Mr. Meadow moved to approve the agenda. Ms. Stulich moved to approve, and Ms. Martin seconded. Motion carried 5-0. The agenda was approved.
- IV. **Approval of Minutes** – Mr. Meadow moved to approve the April 13, 2023, minutes. Ms. Stulich moved to approve the minutes, and Ms. Nji-Kerbers seconded. Motion carried 5-0. The minutes were approved.
- V. **Public Remarks on Non-Agenda Items** – There were no public remarks.
- VI. **CPV-2023-02**

- 1. Waiver from lot coverage of 9.3% from the maximum 35% coverage in RSF-65. (Single Family Residential)
- 2. Waiver of 3.5 feet from the minimum rear lot set back of 20 feet.
- 3. Waiver of 3.0 feet from the minimum side lot set back of 8 feet.

Applicant: Yonasth Caneles (Mr. Caneles’ daughter provided English/Spanish translation)
Location: 8612 35th Avenue, Western side

Mr. Valentine (Staff) addressed the Commission Board and presented a PowerPoint presentation, including exhibits 1-9, and summarized the findings, conclusions, and recommendations in the Staff Report. The applicant is requesting approval to extend the second story, which has already been partially constructed, to the existing rear portion of the house. The applicant is requesting consideration for the following variances and/or validations:

Variance/Validation Requests:

- 1. A variance of 4-feet from the minimum 20-foot rear yard setback.**
- 2. A variance of 3-feet from the minimum 8-foot side yard setback.**
- 3. Validation of existing 3,369.20 square foot minimum lot area.**
- 4. Validation of existing 40-foot minimum lot width.**
- 5. Validation of existing 44.3% maximum lot coverage.**

The following criteria and staff comments have been reviewed by the Commissioners. All criteria must be met before any variance and/or validation can be granted.

1. A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features).

Staff Comment: This specific property has an extraordinary condition in that the existing building was constructed on a non-conforming lot over 50 years ago. The requested validations reflect existing conditions. The two variances are needed to enlarge a second-floor addition but will not encroach further into the setbacks.

2. The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.

Staff Comment: The strict application of the zoning provisions prevents a reasonable improvement to the existing single-family house that will not increase any existing nonconformities.

3. Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.

Staff Comment: Three of the five variances/validations requested are necessary for the existing structure built in 1972, without the proposed extension. The proposed addition will not extend beyond the existing building footprint.

4. Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.

Staff Comment: The planned and partially built second-story addition is not in conflict with the scale and design of neighboring properties.

5. Such variance will not substantially impair the use and enjoyment of adjacent properties.

Staff Comment: All validations and variances in question will be consistent with the characteristics of the surrounding neighborhood, and not impair the use and enjoyment of adjacent properties. Many of the adjacent properties also have two stories. Small lots with similar building setbacks are common in this subdivision (Crystal Springs).

6. A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

Staff Comment: The house was constructed over 50 years ago. The property owner bought this property in 2006. The property owner did not create the difficulty; however, a building permit (and needed variances and validations) should have been obtained prior to the current construction.

Staff recommended validation of lot size, lot width, and lot coverage and variance approval of the rear setback and side yard setback. Staff submitted the Staff Report, Exhibits 1-9, and PowerPoint into the record. Staff and applicant were there to answer any questions.

It was at this point, Ms. Ferguson noted that Staff had not been placed under oath. Mr. Meadow placed Staff under oath at 7:51 p.m., and the meeting proceeded.

Mr. Meadow opened the floor to the other Commissioners to ask Staff questions. Ms. Johnson asked why the setback, which has existed for 50 years, is a variance, instead of validation. Ms. Bader stated that because Mr. Caneles was expanding the 2nd story it needed to meet current setback requirements. Since the addition could not comply with the current setback requirements, variances are needed. With no further questions from the Commissioners, Mr. Meadow placed the applicant under oath. Mr. Caneles' daughter translated.

Mr. Caneles stated via the translator "The reason why I want to expand is this is the first home I bought since coming to America." He explained he needed to expand his home, as his family was growing. There are no other reasons beyond this. He stated he was working with a contractor, and there was confusion with the contractor. The contractor gave him the wrong information on how to get a permit. Until the Stop work order, he didn't know there was an issue. At this time, only the framing has been done.

After hearing from the applicant, Mr. Meadow, in consultation with the other Commissioners, saw no reason to deny the waivers, as the neighbors and footprint are not being affected. Before the motion was voted on, Ms. Nji-Kerber asked Staff if it had been inspected. Ms. Bader stated that once the variance/validation is granted, the Applicant can apply for a County and then a city building permit. Once

the County and City building permits are obtained then construction can continue and inspections will be done.

Ms. Martin agreed with the Staff findings and stated that the expansion will not change the look of the community, is not in conflict with scale and of the neighboring properties. Mr. Chelliah stated that there was a call from a neighbor about the work, and it not being permitted. Mr. Chelliah asked why no application was made for building permits. Mr. Caneles stated that he thought the contractor would apply for the building permit, but he didn't.

Mr. Meadow moved to make a motion to accept the variance, validation and application. Ms. Johnson moved to approve the motion, and Mr. Chelliah seconded. Motion approved 6-0.

VII. ENF-2023-00142 - Citation Number 6ZZ46686268

1. Waiver of chapter 125-27(B) Regarding Missing Porch Rails

Applicant: Robert Schnabel and Stephanie Stulich (Property Owners)
Location: 7400 Dartmouth Avenue (Single Family, detached residential)

Ms. Ferguson reminded Mr. Meadow of Committee procedures, and he placed the witnesses under oath.

Ms. Llaneta, Senior Code Enforcement Officer, (Staff) addressed the Commission Board and presented a PowerPoint presentation, including exhibits, and summarized the findings, conclusions, and recommendation in the Staff Report, which was submitted into the record. Ms. Ferguson asked Staff for clarification on this case that it is about only the missing porch rails. Staff replied, yes.

On February 1, 2023, Staff posted a violation notice and applicants had 30 days to fix the infraction. On March 2, Mr. Schnabel (applicant) requested a meeting and on March 3, Ms. Stulich (applicant) requested to postpone this meeting. On March 8, Staff and her supervisor met with applicants, and applicants indicated they would appeal. On March 23, Staff issued a municipal infraction citation for failure to install railings on the porch. This notice included a fine in the amount of \$100.00, with a re-inspection date of April 24. As of July 5, the property remains non-complaint with Chapter 125, Section 27, Subsection B of the College Park Code. *“ No dwelling or rooming or dwelling unit shall be deemed to comply with the requirements of the Housing Ordinance relating to stairways and porches unless: Every stairwell and every flight of stairs which is more than two risers high has rails not less than two feet six inches high, measured vertically from the nose of the treads to the top of the rail, and every porch which is more than two risers high has rails not less than three feet six inches above the platform, provided that , in the case of railings affixed to external stairs or stairwells, this provision shall require only the maintenance, reconstruction or replacement of existing rails.”*

The applicants are requesting an appeal of the municipal infraction Citation Number 6ZZ46686268, issued for failure to install missing porch railings at the subject property within specified period in violation of Chapter 125, Section 27, Subsection B of the Code

of the City of College Park. Applicants suggest the following plan to provide assurance to the APC and the City that progress is being made towards resolving the citation issue as well as associated project. Applicants will submit a work plan to the Code Enforcement Officer and the APC within one month (August 6) and then quarterly submit a written progress report describing the progress made towards completing the work in the work plan. If the City is not satisfied with the pace of the progress, it will ask the applicants to appear before the APC again.

Mr. Meadow opened the floor to the Commissioners to ask Staff questions.

Commissioners had safety concerns about the porch and missing railings. City Attorney Ferguson wanted to know how to approach the house and Staff answered from the back and Ms. Ferguson also noted that it had 5 steps in excess of the 2 required steps. Ms. Nji-Kerber asked how long the porch has been without railings. Ms. Llaneta stated it had been a while, late 2020 since she was assigned the case. Mr. Meadow stated that the applicants were granted a Historic Area Work Permit in 2020, which expired in October 30, 2020, but had been extended until October 30, 2023. The Violation was written, but he wasn't sure why. Staff explained that she didn't know about the extension and that the applicants would have had to also apply for a city permit to do the work.

The floor was then turned over to the applicants. Ms. Stulich spoke first and provided a comprehensive overview of the home in question and history of its various renovations. They have been cited in the past for code violations and have been required to provide periodic progress reports to previous APCs and have completed an impressive amount of high-quality repair and realize that the pace of this work is of concern to the city and the APC. Applicant reiterated that:

- First, the citation before you is for the porch railings, not stair railings. This porch has never had railings on the front steps, which are made of concrete and have concrete sides but not railings.
- Second, safety is not an issue here, because they have installed temporary safety barriers and the porch is not receiving visitors or being used by them (except to do the necessary repairs).
- Third, their understanding is that building permits are not required for “ordinary maintenance” such as repairs to siding and hand railings. They do intend to apply for the requisite building permits for structural work such as to the porch roof before that work begins.

Mr. Schnabel spoke next. He provided an academic and historic overview of the house, the restoration project and his qualifications. The house was designated a County Historic Site in 1980. Applicant purchased the property in 1978, which also includes a carriage house and a chicken coop, and restoration work has been done over the course of these years.

Applicant explained extensively what work would need to be done before permanent porch hand railings could be installed:

1. Exposed porch floor beams and joists need attention to their fastening.
2. Floorboards that had been removed need to be re-installed; they are currently stored in level planes for stability. In addition, 29 replacement corner floorboards need to

- be installed. (All of these floorboards have been treated with Boracare, and most have been painted.)
3. Floorboards on the south wing and a portion of the east wing floorboards need to have their paint removed with a heat gun or infra-red Speed Heater; be treated with Boracare, primed twice with California linseed oil paint, and top coat painted (twice) with California acrylic floor paint.
 4. Two newly milled porch posts need to be installed. The post turnings have been sanded for precise dimensioning. (They have been treated with Boracare, one has been painted.) They both need precise height adjustment. The remaining porch posts will need repositioning over the newly installed floorboards, as well as minor repairs to the bottoms.
 5. A level ceiling structure needs to be created in order to install the ceiling bead board. The existing ceiling joists were not blocked when they were initially installed, and some have twisted. Also, the ceiling joist ledger board needs adjustment for level. (The triple-bead ceiling boards have been milled and treated.)

In addition, the following above-porch work needs to be complete before the roof work commences:

1. Repair squirrel damage to east and south gables.
2. Install fish scales (including back structure) to east and south gables.
3. Install molding to east gable.
4. Prep/paint east and south gables.
5. Complete siding installation to east facade.
6. Install corner boards to north and south corners.

After hearing from applicants, many of the Commissioners still had many questions about the safety aspect of this construction site and felt the need to discuss the conditions of this waiver request in a closed session. The Committee proceeded with a closed session at 9:30p. At 9:53p, the Committee called the applicants back. Ms. Johnson made a motion to grant the waiver conditional on:

- 1) A constant barrier to the entrance remaining in place at all times.
- 2) If the barrier to the porch is removed, someone must be posted there to prevent access during the work, and to replace the barrier after the construction is completed.
- 3) Signage warning of danger shall be developed in consultation with City staff and posted visibly at the work site.
- 4) A barrier or some other temporary barrier must be placed along the perimeter of the porch with warning signage.
- 5) A proposed timeline with milestones must be submitted in August 2023, with quarterly updates provided.

Otherwise, the waiver will be voided, and the city may resume issuance of citations and any additional requisite steps.

Ms. Nji-Kerbers seconded the motion. All were in favor as presented. Motion passed, 5-0.

VIII. Update on Development Activity – Ms. Bader provided an update on the Metropolitan development located at Baltimore and Cherokee. There is an amendment for a 14-unit reduction and an additional 22 parking spaces. Maryland-National Capital Park and Planning Commission will review this.

IX. Other Business – No other business to report.

X. Adjourn – There being no other business, Mr. Meadows asked for a motion to adjourn the meeting. Ms. Johnson moved to adjourn the meeting, and Mr. Chelliah seconded. Motion carried 5-0. Meeting adjourned at 10:02 pm.

Respectfully submitted by Lori Jarman, Contract Secretary