



**CITY OF COLLEGE PARK  
 ADVISORY PLANNING COMMISSION  
 7401 BALTIMORE AVENUE, COLLEGE PARK, MARYLAND  
 Draft Minutes of Meeting  
 August 3, 2023  
 7:30 p.m.**

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

Also Present: Planning Director – Miriam Bader; City Attorney – Suellen Ferguson; Community Development Planner – Erik Valentine; Executive Assistant – Moira Abernethy; Applicant – Nancy A. Baker; Applicant’s daughter – Teri Miller; Applicant’s neighbor – Dan Blasberg, Applicant’s neighbor at 8800 Rhode Island Avenue; Berwyn Civic Association Co-Presidents – Bob Caitlin, via zoom, and Karyn Keating.

- I. Call to Order** – Ms. Stullich called the meeting to order at 7:33 p.m.
- II. Amendments to the Agenda** – There were no amendments to the agenda.
- III. Approval of the Agenda** – Ms. Stullich requested a motion to approve the agenda. Mr. Meadow moved to approve, and Ms. Martin seconded. Motion carried 5-0. The agenda was approved.
- IV. Approval of Minutes** – Ms. Stullich noted that there was an error that needed to be corrected in the July 3, 2023, minutes (motion to approve in case number CPV-2023-02: The motion carried 6-0, not 5-0 as was stated in the minutes.) Mr. Meadow motioned to approve the minutes with that correction, and Ms. Johnson seconded. The minutes were approved as amended.
- V. Public Remarks on Non-Agenda Items** – There were no public remarks.
- VI. CEO-2023-03**
  - 1. A 1-foot height variance from the City Fence Ordinance Chapter 87, section 23, paragraph C, of the City Code for a total height of 4-feet.**
  - 2. A fence material variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C, to allow a chain-link fence.**

**Applicant: Nancy A. Baker and her daughter, Teri Miller**  
**Location: 4907 Tecumseh Street**

Mr. Valentine (Staff) was sworn in and addressed the Commission Board and presented a PowerPoint presentation, including five (5) exhibits, and summarized the findings, conclusions, and recommendations in the Staff Report.

The applicant is requesting approval to erect a 4-foot high chain-link fence along the property's front yard facing Tecumseh Street. The purpose of the fence is to make a safe enclosure for the family dog, Enzo. Enzo is an 8-month-old Bernedoodle, or a mix between a Bernese Mountain dog and a Standard Poodle. A 3-foot high fence cannot adequately contain Enzo. He has the ability to jump over a 3-foot high fence. Applicant told Staff that a 4-foot high fence should be sufficient to contain him. The applicant is requesting consideration for the following variances:

1. A 1-foot height variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C of the City Code to permit a total height of 4-feet.
2. A fence material variance from the City Fence Ordinance Chapter 87, Section 23, paragraph C to allow a chain-link fence.

The property is a corner lot located on the south side of Tecumseh Street and the west side of Rhode Island Avenue and is bordered by two streets and one alleyway, resulting in three sides that are considered front yards. The house faces Tecumseh Street and is set far back on the lot, resulting in a narrow backyard. The property is irregularly shaped with four sides, one of which is considerably narrower than its opposite side and contains 9,339 square feet. Two sides of the lot border a street. The proposed fence would be an extension of an existing chain-link fence along both side lot lines and rear lot lines. The proposed fence would not extend far enough across the Tecumseh Street frontage to lay directly in front of the dwelling, instead turning back to create an enclosure around a yard that can be perceived as both a side and front yard.

### **COLLEGE PARK CRITERIA FOR GRANTING A FENCE VARIANCE**

1. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions that would support the request for a variance.**

Staff Comment: This parcel has an exceptional circumstance because it is a corner lot additionally bordered by an alley and so has three front yards, together with a narrow back yard which is the only yard not facing a street but is not suitable for use for the dog. The narrowness of the lot skewed towards one side makes it so that what is considered the rear yard is smaller than normally characteristic of the neighborhood, and too small for a pet enclosure. The side-front yard effectively serves as the rear yard, and it is classified as a front yard per the City Code. The enclosure and height are necessary for the care of the dog, Enzo.

2. **Denial of the variance will result in a peculiar and unusual practical difficulty to, or an exceptional or undue hardship to the owner.**

Staff Comment: Denial of the variances will significantly impair the applicant's ability to care for the family dog, since it will take away any usable space for the dog to spend

time safely outdoors. Also, a 3-foot high fence is not a sufficient height to keep the dog enclosed.

**3. Granting the variance will not impair the intent, purpose, or integrity of the Fence Ordinance.**

Staff Comment: Granting this variance will not adversely impact the intent, purpose, and integrity of the City's Fence Ordinance. There are many similar fences in this neighborhood.

**4. The variance is consistent with the design guidelines adopted for the Historic District, if applicable.**

Staff Comment: Not applicable.

**5. The front yard fence for which a variance is requested incorporates openness as much as is practical, however, that it shall not be constructed of chain-link unless this material is consistent with the surrounding neighborhood.**

Staff Comment: The requested fence is chain-link to remain consistent with the existing fence on the property, and with other properties in the neighborhood.

Staff recommends that the height and material variance be approved.

Ms. Stullich accepted the Staff Report into the Record and opened the floor to the Commissioners for questions to Staff.

Various Commissioners asked clarifying questions such as the proposed location of fencing, how far it would be from the curb, why chain-link fencing, and what is the current height of the applicant's fence. Staff answered each question referring to the presentation clarifying these points. Mr. Meadow asked if Staff had informed the applicant about the City's \$2,500 chain-link fence removal grant to encourage residents to remove their existing chain-link fence and replace it with another type of open fence; Staff said they did not.

Nancy A. Baker, applicant, and her daughter, Teri Miller, were sworn in. Ms. Miller spoke on her mother's behalf. She explained they needed to contain the family dog and had erected a temporary fence to allow the dog to be able to have some exercise instead of always remaining on a leash. The wood fence shown in the Staff Report belongs to the next-door neighbor and was put up long after the existing chain-link fence. The applicants currently have a 4-foot high chain-link fence and would like to erect a new chain-link in their backyard to provide continuity. The fence would not cross the front plane of the house. Ms. Miller stated that there are many chain-link fences in their neighborhood already. She stated that having to take down and erect a new chain-link fence would be a financial hardship for her mother, who is on a fixed retirement income.

The floor was open to the public for comment, and the speakers were sworn in. Ms. Stullich acknowledged Mr. Caitlin, who said he was not testifying and is only an observer. Ms. Stullich next called on Karyn Keating. Ms. Keating is a neighbor who is opposed to the chain-link fence. She thought chain-link fences were ugly, rusted and

look scuzzy. She wondered if a compromise could be an option and reminded the committee of the regulations about erecting new chain-link fences.

Dan Blasberg, a neighbor of the applicant, spoke next. He said he lives across from the applicant and would have no issue with a chain-link fence. He explained the difficulties of how the yard is structured and why the fence is needed. He stated that many houses in the surrounding neighborhood have chain-link fences and that properly maintained chain-link fences last a long time and do not rust. He supports the applicant and her request and thinks the committee should approve the request.

Mr. Meadow asked Staff if the incentive program was a one-time program or could you apply yearly. Staff responded generally it is a one-time grant. Ms. Stullich also had a question for Staff about how far in front of the front yard plane the fence extends. Ms. Johnson questioned if the variance was in the spirit of the code. Mr. Meadow asked about the chain-link program to remove chain-link fences and replace with other material. Ms. Bader clarified that it is a carrot/incentive approach to remove the chain-link not a requirement. The program is for property owners who want to remove an existing fence.

Ms. Stullich stated that the hearing had been held and would open the discussion among the Commissioners.

Ms. Stullich started the discussion by saying the intent of the Code is to discourage new chain-link fencing from being installed.

The City Attorney reminded the Commissioners that they should be looking only at the variance criteria requested. The City has an incentive program to remove chain-link fences; however, it is not required to remove them. Ms. Johnson stated the case for the height variance was made but didn't see how the criteria for the material (chain-link) were met. There was discussion about how many homes in the adjoining neighborhood had chain-link fences, and Ms. Stullich opened the record to ask the public about the consistency of chain-link fences in their neighborhood. Mr. Blasberg estimated that about 25% of the houses had front-yard chain-link fences. Ms. Stullich responded that this would mean that 75% of the neighborhood did not have chain-link fences and commented that a new chain-link fence would not be "consistent" with 75% of the neighborhood.

Ms. Johnson suggested that voting on the requested variances be done separately for the height variance and the material variance. Mr. Meadow motioned to approve the 4-foot high variance, and Ms. Martin seconded. Motion passed 5-0.

Mr. Meadow motioned to approve the chain-link material variance and Ms. Martin seconded. Legal counsel again reminded them of the issue at hand and further discussion entailed. Ms. Johnson revisited each variance criteria and argued that all five variance criteria were not met. Ms. Martin supported the Staff's recommendation to approve the material variance, stating that the chain-link material wouldn't impact the neighborhood and that the applicant said it would be a financial hardship to use a different material.

The City's grant program that helps with the cost of replacing chain-link fences was brought up again, as well as a concern that adding more chain-link fencing would not be

consistent with the neighborhood since an estimated 75% of the houses do not have such fences.

Ms. Stullich asked for the Commissioners to vote on the material variance motion and the motion failed by a vote of 2-3. The applicant was told she has the right to appeal this to the City Council. Ms. Bader will consult with the applicant regarding the \$2,500 grant.

**VII. Update on Development Activity** – Ms. Bader provided an update on:

Terrapin House - located at Hartwick Road and Baltimore Avenue. It will be five to six stories and provide student housing and retail. There will be parking inside the building. This will be coming before the City Council.

Maryland Hillel – is in the process of revising plans for a new Hillel Center that will be at 7505 Yale Avenue. The current Hillel, located on Mowatt Lane, is smaller than the new Hillel. Maryland Hillel is doing a land swap with the University of Maryland.

**VIII. Other Business** – Ms. Abernethy advised that the next APC would be hybrid and hosted via a webinar format, not the current Zoom format due to safety concerns. A new meeting link will be sent out.

**IX. Adjourn** – There being no other business, Ms. Stullich asked for a motion to adjourn the meeting. Mr. Meadows moved to adjourn the meeting, and Ms. Johnson seconded. Motion carried 5-0. Meeting adjourned at 9:09 pm.

Respectfully submitted by Lori Jarman, Contract Secretary

