



**CITY OF COLLEGE PARK
 ADVISORY PLANNING COMMISSION
 7401 BALTIMORE AVENUE, COLLEGE PARK, MARYLAND
 Draft Minutes of Meeting
 September 7, 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> </u>	<u> </u>
Santosh Chelliah,	<u> </u>	<u> X </u>	<u> </u>
Daejauna Donahue	<u> </u>	<u> X </u>	<u> </u>
Kiersten Johnson	<u> </u>	<u> </u>	<u> X </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> X </u>	<u> </u>

Also Present: Planning Director – Miriam Bader; Community Development Planner – Erik Valentine; Public Services Parking Manager- Jim Miller; City Attorney – Suellen Ferguson; Applicants – Benjamin Lostocco and Ashleigh Naude Lostocco

- I. **Call to Order** – Ms. Stullich called the meeting to order at 7:35 p.m.

- II. **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. *Ms. Kerber joined the meeting at 7:41 therefore was not present at the time of the approval to vote*

- III. **Approval of Minutes** – Mr. Meadow moved to approve the August 3, 2023, minutes after the following changes. Santosh Chelliah seconded. Motion carried 5-0-0. *Ms. Kerber joined the meeting at 7:41 therefore was not present at the time of the approval to vote*
 - 1) Mr. Meadow corrected the minutes to state he attended the August 3,2023 meeting in person not on zoom.

- IV. **Public Remarks on Non-Agenda Items** – There were no public remarks.

- V. **CPV-2023-03**
 - 1. A variance of 3 feet from Section 27-11002 prohibiting a driveway to encroach into the front yard of a dwelling.
 - 2. A validation of a 7-foot side yard setback in the RSF-65 zone.
 - 3. A validation of 5,550 square feet let area in the RSF65-zone.
 - 4. A validation of a 50-foot lot width in the RSF-65 zone.

Applicant: Benjamin Lostocco and Ashleigh Naude Lostocco
Location: 9722 53rd Avenue

Mr. Valentine (Staff) was sworn in and addressed the Commission Board and presented a PowerPoint presentation, including seven (7) exhibits, and summarized the findings, conclusions, and recommendations in the Staff Report.

The purpose of the request is to build a ten-foot-wide driveway.

COLLEGE PARK CRITERIA FOR GRANTING A FENCE VARIANCE

- 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).**

An extraordinary condition exists due to the original 1950 placement of the house, well prior to the driveway encroachment amendment to the County Zoning Ordinance in 2002. The placement of the house creates two narrow side yards (both 7 feet) that cannot accommodate a compliant driveway without encroaching in front of the Applicant's house. Despite also being on narrow lots, other houses in the neighborhood feature side yard setbacks that provide enough space to construct conforming driveways, giving this property a unique set of circumstances. The Applicant cannot construct a driveway on their property, which is a reasonable request, without encroaching upon the house. All other validations in question are not the result of this proposed driveway and have existed on the property since the house was constructed in 1950.

- 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.**

The narrowness of the lot, together with the placement of the house on the lot that leads to narrow side yard setbacks, combine to create disproportionate impacts on the Applicant under the strict application of the County Ordinance. The strict application of this provision will result in peculiar and unusual practical difficulties to the Applicants, in not allowing them to construct a driveway. Additionally, this would require them to continue the exclusive use of street permit parking, which may be difficult to find, limits accessibility to the house, and may not be safe. Finally, the driveway cannot fit on the lot without encroachment due to the size of the house and location of it on the lot. It would be an unusual practical difficulty to reposition the house so that the driveway would not encroach in front of it.

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

The 3-foot variance requested is not only the minimum reasonably necessary to overcome the exceptional physical conditions, but the absolute minimum required to ensure that the proposed driveway meets width standards. The Applicants are asking for a 3-foot variance because it is the minimum required by the width of their lot and existing side yard setbacks. They are not petitioning for any additional space than is necessary. A 10-foot-wide driveway is a standard width for a driveway.

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.

The variance requested can be granted without any impairment to the intent, purpose, or integrity of the Sector Plan. The Sector Plan calls for improved parking and sidewalks in residential areas. The proposed driveway will improve parking for the applicants and create additional spaces on the street for other residents and visitors. It will also make it easier for City staff to carry out services in the neighborhood that require space in the right of way, like waste collection and snow removal. Additionally, there is a fire hydrant in the right-of-way that will be easier to access with the Applicant parking off the street, assisting in the event of a fire. Driveways are a common characteristic in this neighborhood.

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

The variance will not impair the use and enjoyment of adjacent properties in any way. The only impact that this variance and proposed driveway will have is positive, since it will create more parking on the street for other residents and visitors. Additionally, the north side of the property, where the proposed driveway will be placed, does not abut a neighboring property. Rather, it borders a section of the City right of way, separating the two lots. Thus, the new impervious surface will not further impact any immediate neighbors.

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

The practical difficulty is not self-inflicted by the owner of the property. All validations required for the property are the result of the original development in 1950, decades before the Applicant purchased the property. Additionally, the proposed variance represents the minimum necessary to build a driveway that conforms to legal standards. The property has an existing curb cut, but for unknown reasons a driveway was not constructed at the same time. This is also not self-inflicted by the property owner, as the house was built in 1950. It is probable that the original decision not to construct a driveway was made at this time.

Staff recommends approval of a variance to allow for 3 feet of encroachment in front of the dwelling, permitting construction of a 10-foot-wide driveway. Staff also recommends approval of validations for side yard setbacks, minimum lot area, and minimum lot width.

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

Mr. Meadow asked if the curb cut would be the same width as the driveway. Mr. Valentine stated the curb-cut would move slightly. Mr. Meadow asked if the material being concrete would put the applicants over on lot coverage. Mr. Valentine responded that the coverage would put them at 21%, well below the requirement.

Mrs. Ferguson asked if the driveway would require the removal of the tree. The Applicant replied that it would require the removal of a tree. However, he checked with the City's Arborist and the tree does not fall under the tree ordinance provisions. No other questions from the commission.

The applicants were sworn in by Ms. Stulich and answered questions from the commission.

Mr. Lostocco stated the reasons for wanting a driveway: street parking is at a premium due to the small lots, and less space between the houses. With off-street parking they will have a spot when they get home and also opens spots for visitors. He also stated with off-street parking looks nicer.

Ms. Stulich asked if there were any other questions from the Commission; there were none.

Mr. Meadow made a motion to approve the variance and validations. Ms. Martin seconded.

Mr. Meadow stated he saw no reason not to approve the variance and the validations. Regarding the validations, he said they are needed because of the way the house was built before the current zoning ordinance. He noted that most of the houses in the area have the exact same setback, and that getting a car off the road is a good thing. Ms. Stulich agreed that the requested variance is small and not controversial.

Motion passed 6-0-0.

VI. Prohibited Vehicle Exemption Application to permit a motorcycle trailer to be parked on the street in front of applicants' residence

Applicant: Gregory D. Salers and Laura Salers

Location: 9727 Wichita Avenue

Mr. Miller (Staff) was sworn in and presented the staff report, including a Prohibited Vehicle Exemption Application, four (4) photos of the street/driveway, and vehicle registration. The applicant is requesting an exception to the prohibition for parking a trailer on a public street in a residential zone between the hours of 8:00 p.m. and 6:00 a.m.

Mr. Miller gave a history of the Prohibited Vehicles ordinance (Section 184-8 of the City Code) and said that this is the first case of this kind to come before the APC. In December 2021, the City Council revised the requirements under Chapter 184 to eliminate weight and load capacity limits for vehicles that do not exceed 21-feet in length or 6-feet in width and to authorize the Advisory Planning Commission to hear and make recommendations for good cause to the Council with respect to requests for permission to park prohibited vehicles for more than 30 days, not to exceed 2 years.

The Salers were not in attendance for the meeting. Staff reported the Salers were notified of the meeting and did not know why they were not present.

Mr. Miller gave a review of cases dating back to December 29, 2021. There were a total of 23 requests, 7 of which were for trailers (30%), and all were granted an exemption by the City Council. In 2 cases the City Council gave temporary exemptions: a trailer on Delaware Street

and a food truck. Mr. Miller passed around additional photos of the street and driveway at 9727 Wichita Avenue. He also pointed out that the trailer is smaller than a compact vehicle, only 6-feet in width and 10-feet in length.

Ms. Stullich pointed out that part of the criteria is cubic feet of load space. Mr. Miller confirmed that anything exceeding 300 cubic feet of load space is prohibited. This trailer has 368 cubic feet of load space.

Mr. Miller advised the Commission that five neighbors had sent in emails in support of the trailer exception. Mr. Meadow asked if the neighbors who wrote to support were immediate neighbors and if immediately impacted. Mr. Miller replied that they are. The commission reviewed the addresses of these individuals to verify that all were immediate neighbors. Not all the emails had home address on them so could not verify all were immediate neighbors.

Ms. Martin asked if the intent of the applicants is to have the trailer on the street every day, all day. Mr. Miller confirmed that is the intent and that the applicants want to be able to load and unload grandchildren in the driveway. Part of the agreement would be that the trailer would only be permitted to park directly in front of their own residence.

Ms. Stullich read the definition of “good cause” from the ordinance and asked how wide a typical car is and does road space apply to this case. Mr. Miller answered 6-foot width is the standard. The only reason this is being brought forth is because it is a trailer. The road space issue for safety concerns typically comes into play with Box Trucks, but at times can apply to trailers as well. The only thing pertinent in this case is the “load space” and that it is a trailer. Ms. Stullich had a question about the criteria “good cause”, is parking on the street necessary? How do we decide if it is necessary or not necessary? Mr. Miller said that is something the Commission needs to consider based on what information the applicants provided; that they can only park 2 cars in the driveway, and how they plan to use the trailer. They do not have enough length in the driveway to accommodate all vehicles. Ms. Ferguson pointed out the applicants wrote that a street tree was in the way of getting kids out of car. Ms. Stullich stated the photos did not support that statement.

Mr. Meadow asked what reasons what reasons were for denying an exception in the past. Mr. Miller stated there was only one denial for a food truck but was approved for a temporary exception until the owner found a space to store it. All the others were permanently approved. Mr. Chelliah asked if there were any issues with the exemptions that have been issued. Mr. Miller replied no and that they have not received a single complaint since this process started 12 years ago.

Ms. Martin wanted to know if the applicant intends to store the motorcycle in the trailer? Mr. Miller is not sure if the intent is to store the motorcycle in trailer, or if it is for transport. The applicants want to load unload passengers in the driveway for safety reasons. Ms. Martin asked if there was support from the neighbors. Mr. Miller replied yes, they generally thought there would be more room on the street as the trailer is smaller than a compact car.

The Commission had more questions including which car they would transport the children in (the applicant’s sedan or truck or both), whether they need both cars in driveway; and what the purpose of the trailer is (storage or transport).

Ms. Ferguson advised that these are questions for the applicants and since they are not present at the meeting, she suggested a continuance to give the applicants an opportunity to answer them. Given that the Commission had more questions and would like to see a picture of the trailer on

the street, the Commission asked staff to check with the applicants to see if they could attend a meeting at a future date.

Ms. Martin made a motion to continue the case, Mr. Chelliah seconded. Motion passed 6-0-0.

VII. Update on Development Activity – Ms. Bader gave an update on the Terrapin House Development. This was intended to go before the Planning Board earlier, but it got pushed back, so now it will be on the City Council agenda October 3rd for discussion, on October 10th for action, and October 19th for the Planning Board. They did go before the Local Advisory Committee (LAC) for the Old Town Historic District, which gave a positive recommendation to the HPC.

In regard to the Campus Village shopping center, LV Collective has given notice to all retailers that leases will end on September 30, which may be premature since they do not yet have zoning approval. The city has not received an application yet. Ms. Bader and Mr. Valentine will be meeting with the developer's attorney tomorrow. Ms. Ferguson explained contingency sales are contingent on zoning approval.

VIII. Other Business

Ms. Kerber had technical difficulties with getting into the Zoom meeting at the beginning. She could hear everyone but could not be heard. Staff will explore ways to avoid this problem in the future.

Everyone said goodbye to City Attorney Suellen Ferguson, since this is her last APC meeting, and said she will be greatly missed.

IX. Adjourn

There being no other business, Ms. Stulich asked for a motion to adjourn the meeting. Mr. Meadow made a motion to adjourn, Mr. Chelliah seconded. Motion carried 6-0-0. Meeting adjourned at 8:45.

Respectfully submitted by Moira Abernethy, Executive Assistant.