

DECEMBER 2, 2015
BOARD OF APPEALS
MINUTES

Pursuant to the provisions of Section 27-231(e)(2) of the Zoning Ordinance, at 6:17 p.m. the Chairperson convened the meeting and the following members were present:

Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member
Maurene E. McNeil, Acting Attorney
Anne F. Carter, Administrator
Michael Royer, Communications Specialist

Also Present:

Jared M. McCarthy, Deputy County Attorney
William Edelen, Code Enforcement Officer, Dpie

CASES FOR HEARING

NEW CASES

OTHER ZONING APPEAL

V-94-15 Arthur Julian

An appeal from the determination of the Inspector, Department of Permitting, Inspections and Enforcement, Enforcement Division, to issue Zoning Violation Notice Z-0538744, dated August 11, 2015, citing Petitioner with violation of Zoning Ordinance Sections 27-441(b)(3) & (b)(7) (Keeping or raising livestock or any animal that is not customarily a household pet in R-55 (One-Family Detached Residential) zoned property is not permitted) and requiring Petitioner to remove all livestock, poultry or animal that are not considered household pets from the property at 1308 Inland Drive, District Heights.

Rescheduled to 5/25/16.

VARIANCES

V-117-15 Herman & Dora Reategui

Request for variances of 3.5 feet front yard depth, 6.5 feet side yard width, 1.5% net lot coverage, and a waiver of the rear yard location requirement for an accessory building to validate existing conditions and obtain a building permit to complete construction of a screened porch at 3302 Nicholson Street, Hyattsville. **The record was held open to allow the City of Hyattsville the opportunity to submit comments.**

V-122-15 Robert & Carmilla Stewart

Request for variances of 15 feet rear yard depth/width and 1.4% net lot coverage to validate an existing condition and construct a deck at 10103 Texas Terrace, Upper Marlboro. **The Board resolved, unanimously, that variances of 15 feet rear yard depth/width and 1.4% net lot coverage be APPROVED. Approval of the variances is contingent on development in conformance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.**

V-126-15 John Bly

Request for a variance of 7.1% net lot coverage and a waiver of the parking area location requirement to construct a circular driveway at 2301 Apache Street, Adelphi. **The record was held open for technical**

APPROVED

assistance and for Petitioner to submit photographs of other circular driveways in the neighborhood.

V-125-15 Darrell & Karen Walker

Request for a variance of 11.4% net lot coverage and a waiver of the rear yard location requirement for an accessory building to validate an existing condition and construct a detached garage at 5302 Tilden Road, Bladensburg. **The Board resolved, unanimously, that a variance of 11.4% net lot coverage and a waiver of the rear yard requirement for an accessory building be APPROVED.** Approval of the variances is contingent on development in conformance with the approved site plan, Exhibit 2, and the approved revised elevation plan, Exhibit 21.

At 7:33 p.m. the Board recessed and reconvened at 7:35 p.m.

OTHER ZONING APPEALS

V-99-15 BL Hyattsville, LLC

An appeal from the determination of the Department of Permitting, Inspections and Enforcement, dated September 10, 2015, to deny Permit Application No. 26179-2015 for a building permit and use and occupancy permit for a freestanding vehicle parts store, for property on C-S-C (Commercial Shopping Center) zoned property at 5324-5326 Baltimore Avenue, Hyattsville.

At 8:50 p.m. the Board recessed and reconvened at 9:01 p.m.

The record was held open for the County to submit a memorandum of law by close of business on 12/16/15 and to allow Petitioner the opportunity to respond to said memorandum by close of business on 1/13/16.

At 10:20 p.m. the Board recessed and reconvened at 10:26 p.m.

DISCUSSION/DECISION

OTHER ZONING APPEALS

V-30-15 Upscale Ballroom & Party Equipment Rental

An appeal from the determination of the Code Enforcement Officer (Director's/Building Code Official's Designee), Department of Permitting, Inspections and Enforcement, dated March 30, 2015, in Case No. Z-1491-7-15, to revoke Use and Occupancy Permit No. 2122-2010-00 and order Petitioner to immediately cease all activities in the building, structure, and on the land at the subject property, which is C-S-C (Commercial Shopping Center) zoned property located at Parcel 1, Bedford Village Subdivision, being 3900 Bexley Place, Suitland. **The Board resolved, unanimously, that the determination of the Code Enforcement Officer (Director's/Building Code Official's Designee), Department of Permitting, Inspections and Enforcement, dated March 30, 2015, in Case No. Z-1491-7-15, be AFFIRMED.**

V-99-14 Sun Services, LLC

An appeal from the determination of the Property Standards Senior Inspector, Department of Permitting, Inspections and Enforcement, Enforcement Division, to issue Zoning Violation Notice Z-873-1-15, dated December 12, 2014, citing Petitioner with violation of Zoning Ordinance Section 27-253(c) (Use of the property not in conformance with the Use and Occupancy Permit and/or accompanying site plan) and

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requiring Petitioner to revert the property back to the approved use and site plan for the approved Use and Occupancy Certificate #44395-2013-00 (As listed under the "LIMITATIONS" of this Certificate, "OK for recycling facility per CR-65-2009," a Council Resolution approving this business, which states "all incoming debris will be weighted, inspected to insure that only acceptable materials are delivered and deposited inside of a wholly enclosed building for sorting." Corrective Action: Certificate of Occupancy Permit No. 44395-2013-00 and the accompanying plans require that the sorting of acceptable materials must be conducted within a wholly enclosed building. CR-65-2009 expressly imposes this requirement on the subject premises and this requirement is incorporated into the Certificate of Occupancy Permit No. 44385-2013-00. All doors at the subject premises must remain closed while sorting acceptable materials.) on I-2 (Heavy Industrial) zoned property located at Lots 25 thru 30, Block 56, Beltsville Subdivision, being 11210 Somerset Avenue, Beltsville. **The County's request for a continuance until 1/13/16 was granted for the County and Sun Services' agreed upon terms of resolution to be completed and the matter to be a discussion/decision item for final disposition.**

V-24-15 Sun Services, LLC

An appeal from the determination of the Enforcement Division Senior Inspector, Department of Permitting, Inspections and Enforcement, to issue Zoning Violation Notice Z-1-15, dated March 27, 2015, citing Petitioner with violation of Zoning Ordinance Section 27-253(c) (All use of the property shall be in conformance with the use and occupancy permit, including the accompanying plans), requiring Petitioner to restore the dust suppression system to operation (VIOLATION: Revert property back to the approved use and site plan for the approved Use and Occupancy Certificate #44395-2013-00. As listed under the "LIMITATIONS" of this Certificate, "OK for recycling facility per CR-65-2009," a Council Resolution approving this business, which mandates: "A dust suppression system shall be utilized inside the 20,000 s.f. building."), and County Code Section 4-101, adopting IBC § 114.1 (The *building official* is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation or any ordinance or regulation or any of the provisions of this code), requiring Petitioner to restore the fixed misting system to operation (VIOLATION: The State of Maryland Refuse Disposal Permit No. 2009-WPF-0639 expressly incorporates the revised Operations and Maintenance Manual dated June 30, 2014, which requires: "The Facility will be operated in a manner which prevents air, land, or water pollution, public health hazards or nuisances." and, "All equipment on-site will be operated properly to minimize the creation of dust. A fixed misting system will be available as necessary to spray onto the tipping area or equipment to reduce any dust created.") on I-2 (Heavy Industrial) zoned property located at Lots 25 thru 30, Block 56, Beltsville Subdivision, being 11210 Somerset Avenue, Beltsville. **The County's request for a continuance until 1/13/16 was granted for the County and Sun Services' agreed upon terms of resolution to be completed and the matter to be a discussion/decision item for final disposition.**

VARIANCES

V-71-14 Cory Chase

Request for variances of 8 feet side yard width, 2.2% net lot coverage and a waiver of the rear yard location requirement for an accessory building to validate existing conditions, widen an existing gravel driveway and construct an enclosed breezeway, detached carport and shed at 13805 Old Indian Head Road, Brandywine. **On 12/2/15, the matter was taken under advisement.**

V-95-15 Darryl & Pamela Carter

Request for a waiver of the rear yard location requirement to construct a detached garage at 12611 Henderson Chapel Lane, Bowie. **The record was held open for Petitioners to submit revised elevation plans consistent with Woodmore North Homeowners Association's condition for approval (no windows in the garage).**

V-101-15 Raymond & Faye Hamilton

Request for variances of 7.5 feet side yard width and 19 feet rear yard depth/width to construct an above-ground swimming pool with deck, connecting to an existing deck, at 9602 Windermere Turn, Fort Washington. **The Board resolved, by majority vote, Ms. Johnson abstaining, that variances of 7.5 feet side yard width and 19 feet rear yard depth/width be APPROVED. Approval of the variances is contingent on development in conformance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) and (b).**

V-123-15 Reginald Wood

Request for variances of 7 feet front yard depth, 14 feet side street yard depth, 5 feet side yard width, 20 feet rear yard depth/width, 17.3% net lot coverage, and a waiver of the fence height and location requirements for a fence in the side yard on a corner lot to validate existing conditions and obtain a building permit for two one-story additions, an enclosed front porch, front porch area enclosed into living space, screened porch, attached garage, two attached carports, covered patio, driveway extension and 6-foot privacy fence at 4801 Heath Street, Capitol Heights. **The Board resolved, by majority vote, Ms. Johnson abstaining, that variances of 7 feet front yard depth, 14 feet side street yard depth, 5 feet side yard width, 20 feet rear yard depth/width, 17.3% net lot coverage, and a waiver of the fence height and location requirements for a fence in the side yard on a corner lot be APPROVED. Approval of the variances is contingent on development in conformance with the approved site plan, Exhibit 2, and the approved elevation plans (photographs), Exhibits 3(A) through (AA).**

REQUEST TO REOPEN THE RECORD

V-115-15 Espidia Vargas

Request for a waiver of the parking area location requirement to validate and obtain a building permit for a driveway extension in the front yard at 3311 Cool Spring Road, Adelphi.

At 10:52 p.m. the Board recessed for Executive Session for legal advice and reconvened at 11:18 p.m.

The Board resolved, unanimously, that Petitioner's request to reopen the record for consideration of the letter dated November 17, 2015, from counsel for Petitioner, Richard C. Daniels, be GRANTED.

At 11:20 p.m. the Board recessed and reconvened at 11:24 p.m.

The Board further resolved, unanimously, that a waiver of the parking area location requirement be DENIED.

MINUTES FOR APPROVAL FROM NOVEMBER 18, 2015 -- The Board resolved, by majority vote, Ms. Johnson abstaining, that the minutes be APPROVED.

APPROVED

THE MEETING ADJOURNED AT 11:29 P.M.

Prepared and submitted by:

(Original Signed)
Anne F. Carter
Administrator

APPROVED