

JANUARY 13, 2016
BOARD OF APPEALS
MINUTES

Pursuant to the provisions of Section 27-231(e)(2) of the Zoning Ordinance, at 6:26 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
Emerson S. Davis, Sr., Attorney
Anne F. Carter, Administrator
Michael Royer, Communications Specialist
Aminah Bushrod, Communications Specialist

Also Present:

Jared McCarthy, Deputy County Attorney
Bryon Bereano, Associate County Attorney
William Edelen, Dpie, Code Enforcement Officer
Kelli Armour, Dpie, Construction Standards Inspector
Lauren Clagett, Dpie, Construction Standards Inspector
Ernesto Luna, Spanish Language Interpreter

CASES FOR HEARING

VARIANCES

V-83-15 Immanuel Jesudason, Arason & Rajkumari Stephen

Request for variances of 15.8% net lot coverage, .55 foot side lot line setback for an accessory building and a waiver of the parking area location requirement to validate existing conditions and obtain a building permit for a driveway in the front yard at 2209 Amherst Road, Hyattsville. **Hearing rescheduled to 2/24/16.**

OTHER ZONING APPEAL

V-13-15 Ebony Inn

An appeal from the determination of the Enforcement Division Inspector, Department of Permitting, Inspections and Enforcement, to issue Zoning Violation Notice Z-1026-5-15, dated January 21, 2015, citing Petitioner with violation of Zoning Ordinance Sections 27-253(a)(1) (use of a building, structure or land without a valid use and occupancy permit) and 27-461(b) (adult entertainment is not allowed in the C-M (Commercial Miscellaneous) or C-S-C (Commercial Shopping Center) zones, absent the granting of a Special Exception to an existing establishment with a valid use and occupancy permit for an auditorium, private club or lodge that included activity that meets the definition of "adult entertainment"), and requiring Petitioner to cease the violation and all adult entertainment activities in the building, structure, and on the land per Section 27-264(b), which is M-U-I (Mixed-Use Infill) zoned property located at Parcel 13, Tax Map 65, Grid F1, being 5367 Sheriff Road, Fairmount Heights. **Hearing rescheduled to 2/10/16.**

APPROVED

DISCUSSION/DECISION**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. **The matter remained 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 Board resolved, unanimously, that a waiver of the rear yard location requirement for an accessory building be APPROVED. Approval of the variance is contingent on development in conformance with the approved site plan, Exhibit 2, and the approved revised elevation plan, Exhibit 21.**

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 Board resolved, unanimously, that 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 be APPROVED. Approval of the variances is contingent on development in conformance with the approved revised site plan, Exhibit 15, and the approved elevation plans, Exhibit 3(A) thru (C).**

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 matter was recessed until later in the meeting.

OTHER ZONING APPEALSV-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 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 weighed, 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.

APPROVED

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. **On 1/13/16, a consent agreement signed by Petitioner Sun Services, LLC and the County was submitted to the Board which states that a negotiated resolution has been reached in the appeal, the resolution has been completed, and as a result the subject violation notice and appeal can be dismissed. The Board resolved, unanimously, that the appeal be DISMISSED.**

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. **On 1/13/16, a consent agreement signed by Petitioner Sun Services, LLC and the County was submitted to the Board which states that a negotiated resolution has been reached in the appeal, the resolution has been completed, and as a result the subject violation notice and appeal can be dismissed. The Board resolved, unanimously, that the appeal be DISMISSED.**

V-5-15 Harley Riders Motorcycle Club

An appeal from the determination of the Code Enforcement Officer, Department of Permitting, Inspections and Enforcement, to issue Zoning Violation Notice Z-1024-9-15, dated January 21, 2015, citing Petitioner with violation of Zoning Ordinance Sections 27-253(a)(1) (use of a building, structure or land without a use and occupancy permit) and 27-264(1)(b) (adult entertainment is not allowed in the C-M (Commercial Miscellaneous) Zone without a Special Exception granted to an existing establishment with a valid use and occupancy permit for an auditorium, private club or lodge that included activity that meets the definition of "adult entertainment"), and requiring Petitioner to cease all adult entertainment activities in the building, structure, and on the land per Section 27-264(b), which is C-M (Commercial Miscellaneous) zoned property located at Lot 1, Small Subdivision, being 6510 Old Branch Avenue, Temple Hills. **The matter was taken under advisement.**

APPROVED

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. **The matter was taken under advisement.**

MINUTES FOR APPROVAL FROM DECEMBER 3, 2015 -- The Board resolved, unanimously, that the minutes be APPROVED.

CASES FOR HEARING (Cont'd)**NEW CASES****VARIANCES****V-127-15 Edwin & Sandra Villalta**

Request for variances of 60 feet front street line setback and a waiver of the rear yard location requirement for one accessory building, and 2 feet side lot line setback and 1 foot rear lot line setback for a second accessory building to validate existing conditions and obtain a building permit for a detached carport in the front yard at 6304 58th Place, Riverdale. **Spanish language translation services were provided. The Board resolved, unanimously, that variances of 60 feet front street line setback and a waiver of the rear yard location requirement for one accessory building, and 2 feet side lot line setback and 1 foot rear lot line setback for a second accessory building be DENIED.**

V-60-15 Cody & Jessica Lieuwen

Request for variances of 2.5 feet side yard width, 12.6% net lot coverage, and .85 foot side lot line setback, .37 foot rear lot line setback and 1 foot 2 inches building height for an accessory building to validate existing conditions and obtain a building permit for an existing two-story shed at 8504 60th Avenue, Berwyn Heights. **The record was held open to allow the Town of Berwyn Heights the opportunity to comment on the request.**

V-128-15 David Smith & Mary Kiley

Request for variances of 8.5% net lot coverage and 2 feet side lot line setback for an accessory building to validate an existing condition and construct a shed at 4446 Ammendale Road, Beltsville. **The Board resolved, unanimously, that variances of 8.5% net lot coverage and 2 feet side lot line setback for an accessory building be APPROVED. Approval of the variances is contingent on development in conformance with the approved site plan, Exhibit 3, and the approved elevation plans, Exhibits 4(A) thru (D).**

V-131-15 Attia Little

Request for waivers of the fence location and height requirements for a fence in the side yard (abutting a street) on a corner lot to construct a 6-foot vinyl privacy fence at 3706 Spring Terrace, Temple Hills. **The Board resolved, unanimously, that waivers of the fence location and height requirements for a fence in the side yard (abutting a street) 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, Exhibits 3(A) and (B).**

At 8:37 p.m. the Board recessed and reconvened at 8:50 p.m.

APPROVED

V-134-15 Carla Morales

Request for variances of 1.8% net lot coverage, 43 feet front street line setback for an accessory building and a waiver of the parking area location requirement to validate existing conditions and obtain a building permit for a new driveway at 4834 66th Avenue, Hyattsville. **The record was held open to allow Petitioner the opportunity to submit a revised site plan.**

V-135-15 Lannie Prince & Gary Herrod

Request for variances of 1.5 feet side yard width, 5.2% net lot coverage and 2 feet rear lot line setback for an accessory building to validate existing conditions and obtain a new building permit and final inspection for a one-story addition with landing and steps, two-story addition and deck at 11210 Fruitwood Drive, Bowie. **The Board resolved, unanimously, that variances of 1.5 feet side yard width, 5.2% net lot coverage and 2 feet rear lot line setback for an accessory building be APPROVED. Approval of the variances is contingent on development in conformance with the approved site plan, Exhibit 3, and the approved elevation plans, Exhibits 4(A) thru (C) (one-story addition) and Exhibits 5(A) and (B) (two-story addition).**

DISCUSSION/DECISION (Cont'd)

VARIANCES

V-126-15 John Bly

The matter was reconvened and then taken under advisement.

THE MEETING ADJOURNED AT 9:38 P.M.

Prepared and submitted by:

(Original Signed)
Anne F. Carter
Administrator

APPROVED