

MEMORANDUM

TO: City Council

FROM: Alfred D. Lott, ICMA-CM, CPM
City Manager

SUBJECT: *Status Report*

DATE: September 30, 2021

Status Report

1. Appeal of BAPB Variance Decision

The applicant in Variance case BV-2-21, Ms. Carmen Woods, has appealed the Bowie Advisory Planning Board's denial of her application on September 14th. The subject property is located at 4108 Crosswick Turn. The applicant is seeking a Variance (after the fact) of 599 square feet, or 5.3%, from the 30% maximum lot coverage requirement prescribed by Section 27-442 (c) (Table II) of the Prince George's County Zoning Ordinance to validate existing lot coverage at 35.3% and a Variance (after the fact) of six feet from the minimum eight foot side yard setback required by Section 27-442 (e)(Table IV) to validate construction of an 11' x 16' pavilion structure two feet from the side lot line. The BAPB voted unanimously to recommend denial, in accordance with the staff recommendation. Planning staff will prepare a transcript of the BAPB hearing and send the document, plus a list of contents of the case file, to City Council and schedule the appeal hearing. There must be seven days' notice of the hearing, which is confined to the record created at the BAPB meeting. At the hearing, the Council can decide to affirm, reverse or do something else with the BAPB recommendation. A resolution that details the City Council findings will be scheduled for Council approval on a subsequent agenda.

ADL: lfr
Attachments

September 28, 2021

TO: Awilda Hernandez

City Clerk

FROM: Carmen D. Woods

A handwritten signature in black ink, appearing to read "Carmen D. Woods", with a long, sweeping flourish extending to the right.

This memo is to request an appeal for Case No. BV-2-21,4108 Crosswick Turn.



City of Bowie

15901 Excalibur Road
Bowie, Maryland 20716

NOTICE OF RECOMMENDATION (RESOLUTION) OF THE BOWIE ADVISORY PLANNING BOARD

RE: Case No. BV-2-21, 4108 Crosswick Turn

Enclosed herewith is a copy of the Recommendation setting forth the action taken by the Bowie Advisory Planning Board in your case on:

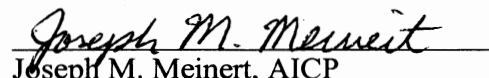
September 14, 2021
Public Hearing Date

CERTIFICATE OF SERVICE

This is to certify that on 9/15/21 the above notice and attached Recommendation were mailed, postage prepaid, to all persons of record.

NOTICE

Within fifteen (15) calendar days from the date this notice was mailed, any person of record may file exceptions to the Advisory Planning Board's recommendation and a request for oral argument before the City Council. Exceptions shall be addressed to the City Clerk, Bowie City Hall, 15901 Excalibur Road, Bowie, Maryland 20716.


Joseph M. Meinert, AICP
Director of Planning and
Community Development

cc: City Attorney
MNCPPC Zoning Division
Clerk of the County Council
BAPB Members
Department of Community Services
Applicant

RESOLUTION
OF THE BOWIE ADVISORY PLANNING BOARD
REGARDING VARIANCE APPLICATION BV-2-21, A REQUEST BY
CARMEN WOODS FOR A VARIANCE (AFTER THE FACT) OF 599
SQUARE FEET, OR 5.3%, FROM THE 30% MAXIMUM LOT
COVERAGE REQUIREMENT TO VALIDATE EXISTING LOT
COVERAGE AND A VARIANCE (AFTER THE FACT) OF SIX FEET
FROM THE MINIMUM EIGHT FOOT SIDE YARD SETBACK TO
VALIDATE CONSTRUCTION OF AN 11' X 16' PAVILION STRUCTURE
TWO FEET FROM THE SIDE LOT LINE
AT 4108 CROSSWICK TURN

WHEREAS, the City of Bowie (hereinafter the "City"), pursuant to Ordinance O-24-98 (hereafter the "Ordinance"), is authorized to hear requests for Variances from the terms of the Prince George's County Zoning Ordinance (hereafter the "Zoning Ordinance") with respect to building setbacks, height, etc., and to make recommendations to the Bowie City Council in connection therewith; and,

WHEREAS, the City is authorized by the Ordinance to grant an application for a Variance if the Bowie Advisory Planning Board (hereinafter the "BAPB") makes the following findings pursuant to Section 27-230 of the Zoning Ordinance:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions; and,
- (2) The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and,
- (3) The variance will not substantially impair the intent, purpose, or integrity of the General or Master Plan.

WHEREAS, on or about August 12, 2021, Carmen Woods ("the Applicant"), owner of property located at 4108 Crosswick Turn in the Chapel Forge section of the City ("the Subject Property"), submitted an application for a Variance (after the fact) of 599 square feet, or 5.3%, from the 30% maximum lot coverage requirement prescribed by Section 27-442 (c) (Table II) of the Prince George's County Zoning Ordinance to validate existing lot coverage at 35.3% and a Variance (after the fact) of six feet from the minimum eight foot side yard setback required by Section 27-442 (e)(Table IV) to validate construction of an 11' x 16' pavilion structure two feet from the side lot line: and,

WHEREAS, the Subject Property was posted with a public hearing advertisement on August 30, 2021 in accordance with the adopted Ordinance; and,

WHEREAS, the technical staff report recommended **DENIAL** of the request; and,

WHEREAS, the Board voted to recommend **DENIAL** in accordance with the staff recommendation; and,

WHEREAS, the BAPB's recommendation was based on the findings and analysis found in the technical staff report and testimony provided during the hearing; and,

WHEREAS, the BAPB hereby makes the following findings of fact:

1. The Applicant is seeking to validate existing lot coverage at 35.3% and to validate construction of an 11' x 16' pavilion structure two feet from the side lot line.
2. Subject Property is zoned R-80 (One-Family Detached Residential) and contains 11,250 square feet. The lot is rectangular in shape and level with a flat elevation, having no distinguishing topographic features.
3. Over the years, owners of the property constructed multiple improvements without obtaining building permits. These structures included a 288 square foot (12' x 24') freestanding garage, a driveway extension to the detached garage, a 400 square foot canopy/pavilion and a partially constructed 176 square foot addition to the canopy/pavilion. According to PGAtlas aerial photography, the detached garage and driveway extension were constructed between 2000 and 2005, prior to the current owner's occupancy in 2006; the other improvements were made after 2018.
4. Upon discovering the unpermitted construction, the Applicant worked with the City's Code Compliance office and consented to eliminating a portion of the driveway and reducing the detached structure to 200 square feet to comply with the City Code. Also, the structure will be used for storage purposes only and will not be permitted to be used as a garage. The Applicant is seeking to obtain permission, through the granting of a zoning Variance, to validate the other existing improvements cited in this application.
5. There were no responses from the seven property owners notified of the Variance request.

WHEREAS, the BAPB hereby makes the following conclusions of law:

1. **"A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions."** The BAPB finds that there is nothing inherent about the Subject Property that would allow it to meet this criterion. The Subject Property does not have exceptional narrowness, shallowness or shape, exceptional topographic conditions or other extraordinary situations or conditions. The COVID-19 pandemic, though far-reaching in its impact on the world, is not an extraordinary situation relative to the property involved in this Variance application. The BAPB therefore concludes that this criterion is not met with the Applicant's argument.

2. **"The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property."** The Applicant has not addressed this criterion, other than to cite the pandemic as a motivating force for creating "safe spaces". A portion of the existing lot coverage was constructed by the previous owner, and that coverage is not a result of the actions of the present owner. The construction of the 400 square foot canopy/pavilion, which raised lot coverage above and beyond the pre-existing coverage, was the result of actions of the current property owner.

The BAPB agrees that having to remove structures may have an adverse financial impact on the property owner. However, the BAPB finds that the justification for the granting of a Variance for the additional lot coverage and the side yard setback is self-created and without justification. Eliminating the 176 square foot canopy/pavilion addition would eliminate the need for a side yard setback Variance and would also reduce the Subject Property's lot coverage to approximately 34%. Furthermore, if additional driveway paving were removed between the existing fence and the front building line of the house, approximately 135 additional square feet could be deducted from the Subject Property's total lot coverage, resulting in a lot coverage of about 32.5%.

Based on the above discussion, however, the BAPB concludes that this criterion is not met.

3. **"The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan."** The Applicant indicates that, if the Variance is approved, they will finish the work on the canopy/pavilion addition and paint it to match the home. The Applicant explains in the Statement of Justification that the canopy/pavilion addition does not affect the curb appeal or residential character of the property itself. According to the Applicant, the structure is barely noticeable from the street view nor the rear as the fence is covered in shrubs and bushes. The Applicant does not address whether the variance will substantially impair the intent, purpose or integrity of the General Plan or Master Plan.

The Subject Property is located within a Residential, Low Density land use area within the Developing Tier as designated in the 2006 Approved Bowie and Vicinity Master Plan. A stated Goal for the Developing Tier in both the General Plan and Area Master Plan is to sustain or reinforce existing suburban residential neighborhoods. Master Plan Policy 3 for the Developing Tier states:

Policy 3. Protect, maintain and enhance the unique historical, cultural, and architectural identity, heritage and character of the City of Bowie.

Strategy 3 under this policy states the following:

3. Encourage the compatibility of infill residential development...Consideration should be given to similarity in

density, style, size, material and design to the surrounding residential neighborhoods.

The BAPB recognizes that some of the existing lot coverage has been in place for many years. However, the BAPB concludes that approval of the Variance request to validate 599 square feet of additional lot coverage and construction of the 176 square foot addition, two feet from the side lot line, without any justification, will permit development of the Subject Property in a way that may be harmful to the character of the surrounding residential neighborhood, thus violating the policy and strategy identified in for the Developing Tier in the Master Plan. The BAPB concludes that approval of the Variance request for the additional lot coverage over 30% and reduction of the eight foot minimum side yard setback to two feet, will substantially impair the intent, purpose or integrity of the Master Plan and General Plan. Therefore, this criterion has been not been met.

NOW, THEREFORE, BE IT RESOLVED by the Bowie Advisory Planning Board that:

1. The foregoing Whereas clauses are, by this reference, incorporated herein as operative provisions of this Resolution.
2. **The BAPB hereby recommends**, for Variance BV-2-21, **DENIAL** of the request to validate existing lot coverage at 35.3% and to validate construction of an 11' x 16' pavilion structure two feet from the side lot line.

The following members were present and voted as follows:

<u>Name of BAPB Member</u>	<u>Vote</u>	<u>In Favor</u>	<u>Opposed</u>
Terry Rogers, Chair	✓		
Carl Schuettler, Vice-Chair	✓		
Lisa Avery	(Excused)		
Michael Byrd	✓		
James Golato	(Excused)		
Ronald G. Skotz	✓		

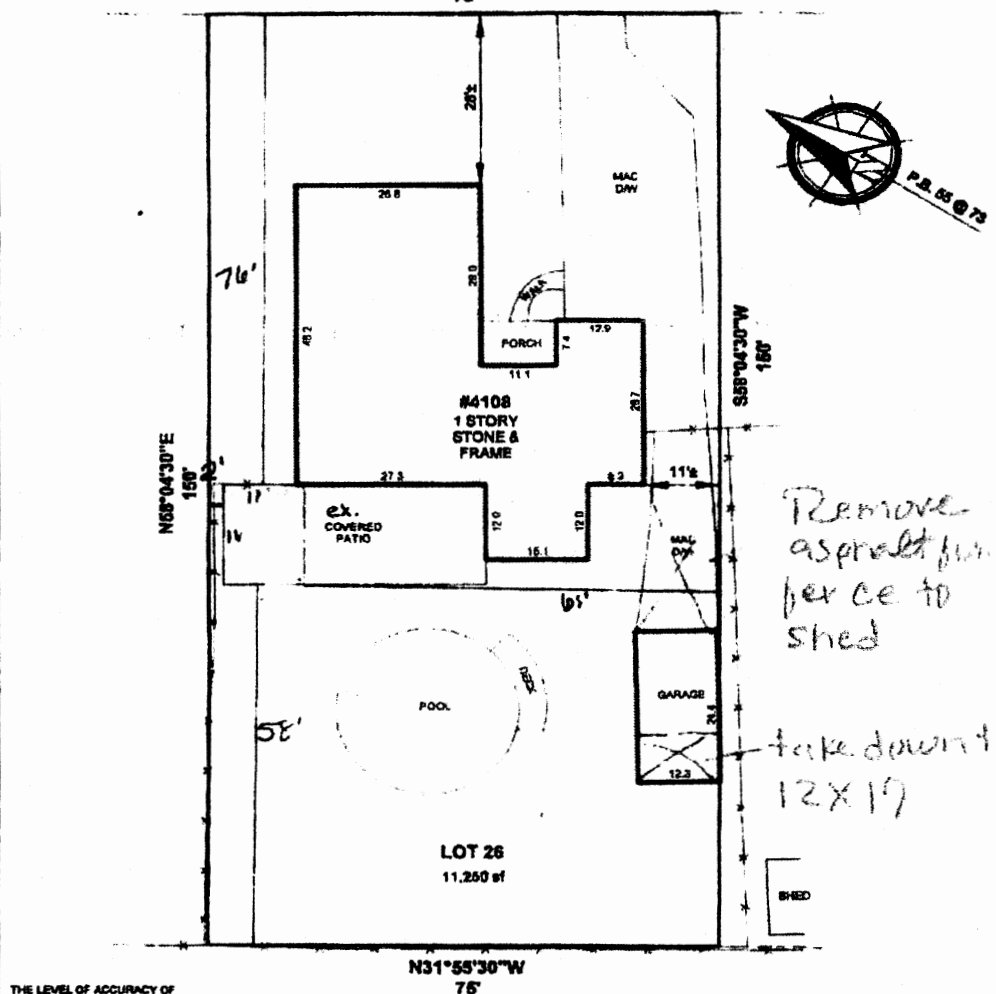
So recommended this 14th day of September, 2021.

BOWIE ADVISORY PLANNING BOARD

Mr. Terry Rogers
Chair

CROSSWICK TURN

831°55'30"E
75'



THE LEVEL OF ACCURACY OF
DISTANCES TO APPARENT
PROPERTY LINES IS

1/2"

LOCATION DRAWING OF:

#4108 CROSSWICK TURN
LOT 26 BLOCK 203
SECTION 88

CHAPEL FORGE AT BELAIR
PLAT BOOK 65, PLAT 73

PRINCE GEORGE'S COUNTY, MARYLAND

SCALE: 1"=20' DATE: 01-26-2021

DRAWN BY: SM FILE #: 210730-200

LEGEND:

— FENCE
— SABBENT ENTRANCE
— SAW
— SAW WINDOW
— BRICK
— BLDG. RESTRICTION LINE
— BENT
— BARRETT
— CONCRETE STOOD
— CONCRETE
— DRIVEWAY
— BRISTLES
— FRAME
— MACADAM
— DATE
— CHESNARD
— PUBLIC UTILITY EMT.
— PUBLIC IMPROVEMENT EMT.
— COLOR KEY:
— RECORD INFORMATION
— IMPROVEMENTS
— BENT & RESTRICTION LINES

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SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN REGULATION 12 CHAPTER 88.12 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCES, BUILDINGS, OR OTHER IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACQUISITION OF PROPERTY BOUNDARY LINES, BUT EACH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR RECORDING FINANCING OR REFUNDING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar as it is REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENTS IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING OR REFUNDING. NO TITLE REPORT WAS FURNISHED TO NOR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS MADE IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISREPAIR OR MAY BE CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

DULEY & ASSOC.

WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY.

(EXCLUDING D.C. & BALT. CITY)



List of Contents of Case File #BV-2-21

- | | | | |
|-----|---------|---|---|
| 1. | 3/22/21 | - | Variance Referral Email from Stepowany M-NCPPC |
| 2. | 3/24/21 | - | Original email from Carmen Woods |
| 3. | 5/14/21 | - | Email from Woods re: compliance options |
| 4. | 6/24/21 | - | Email from Woods re: Amended Lot Plan |
| 5. | 6/29/21 | - | Email Stepowany re: calculations |
| 6. | 6/29/21 | - | Email Woods re: clarification as to revisions |
| 7. | 6/29/21 | - | Email Stepowany re: final calculations |
| 8. | 7/7/21 | - | Email Woods re: JMM criteria instructions |
| 9. | 8/12/21 | - | Mailing List map/labels |
| 10. | 8/12/21 | - | Variance Application |
| 11. | 8/20/21 | - | Project Worksheet |
| 12. | 8/27/21 | - | Public Notice Letter |
| 13. | | - | Certified Mail Receipts |
| 14. | 8/30/21 | - | Affidavit of Sign Posting |
| 15. | 8/30/21 | - | Email JMM to Brooke Larman M-NCPPC referral |
| 16. | 8/30/21 | - | Fee Receipt |
| 17. | 9/7/21 | - | Staff Report |
| 18. | 9/7/21 | - | Record of Telephone Conversation, Ms. Sharon Whitman |
| 19. | 9/14/21 | - | Applicant's Affidavit of Public Hearing Sign Inspection |

**NOTE: Contents of the file above constitute the public hearing
"record"**
