



# City of Bowie

2614 Kenhill Drive  
Bowie, Maryland 20715

## MEMORANDUM

**TO:** City Council

**FROM:** David J. Deutsch  
City Manager *DJD*

**SUBJECT:** Resolution R-33-08  
BV-1-08  
1307 Paddock Lane

**DATE:** June 12, 2008

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A hearing of the above application by the City Council is scheduled for Monday night. The applicant's appeal letter, the listing of the contents of the official case file, a transcript of the BAPB's April 22, 2008 public hearing, the BAPB resolution and the staff report prepared for this case were sent to you previously.

Under the City Code, the hearing in the case is limited to the facts and information already in the record of the BAPB hearing. Only a person who is a party of record in this case can testify before Council. At the conclusion of the hearing, the majority of City Council shall either accept, deny or modify the recommendation of the BAPB, or return the variance application to the Board to take further testimony or reconsider its recommendation. The Council must give its decision in writing, stating the reasons for its action. If the Council denies a variance, no other variance covering the same specific subject on the same property shall be filed within the following 12-month period. The Council decision may also be appealed to the Circuit Court.

The BAPB voted to deny the applicant's request in BV-1-08. The staff recommendation was for denial of the variance. The BAPB's findings and conclusions are reflected in Resolution BV-1-08 (attached). Staff has prepared the attached City Council Resolution affirming the BAPB recommendation (R-33-08). Should the Council choose to act contrary to the BAPB recommendation, another resolution will be prepared and placed on a future Council agenda for action. Pursuant to the City Code, failure of the City Council to act on the recommendation of the BAPB within sixty (60) days of receipt thereof shall result in the denial of the request.

Last day for City Council to Take Action: June 23, 2008.

Attachments

**RESOLUTION**  
**OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND**  
**ADOPTING THE RECOMMENDATION OF THE BOWIE ADVISORY**  
**PLANNING BOARD TO DENY VARIANCE BV-1-08, A REQUEST FOR**  
**VARIANCES FROM SECTION 27-442 (c) (TABLE II) AND (e) (TABLE IV) OF THE**  
**PRINCE GEORGE'S COUNTY ZONING ORDINANCE TO ALLOW 6.3% LOT**  
**COVERAGE ABOVE THE 25% MAXIMUM AND TO ALLOW A STRUCTURE TO**  
**BE CONSTRUCTED EIGHT (8) FEET INTO THE REQUIRED MINIMUM 8-FOOT**  
**SIDE YARD SETBACK TO VALIDATE EXISTING CONDITIONS AT 1307**  
**PADDOCK LANE**

**WHEREAS**, the City of Bowie (hereinafter the "City"), pursuant to the City Code (hereafter the "Code"), 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, lot coverage and so forth; and,

**WHEREAS**, the Bowie Advisory Planning Board (hereinafter "BAPB") is authorized by the Code to grant an application for a Variance if 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**, the City Council is authorized by the Code to accept or deny the recommendation of the BAPB with respect to Departures and Variances; and,

**WHEREAS**, on or about January 2, 2008, Mr. and Mrs. Scotch Ndlovu (hereinafter the "Applicant") of 1307 Paddock Lane (hereinafter "Subject Property") submitted an application for a Variance from Section 27-442 (c)(Table II) and (e) (Table IV) of the Zoning Ordinance for the above address, specifically requesting a Variance to allow 6.3% lot coverage above the 25% maximum and to allow a structure to be constructed eight (8) feet into the required 8-foot minimum side yard setback to validate existing conditions in the R-R (Rural Residential) zone; and,

**WHEREAS**, the advertisement of the public hearing was printed in the local newspaper on April 10, 2008 in accordance with the Code; and,

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

**WHEREAS**, on April 22, 2008, the BAPB heard testimony and accepted evidence with respect to whether it can make the necessary findings set forth in the Ordinance to recommend the granting of a Variance, and the Board voted to recommend **DENIAL** of the variance in accordance with the staff recommendation; and,

**WHEREAS**, the BAPB's recommendation for **DENIAL** on April 22, 2008 was based on the findings and analysis found in the technical staff report; and,

**WHEREAS**, pursuant to the City Code, within 15 days of the BAPB's decision, persons of record may file an appeal or a City Councilmember may request oral argument if the BAPB's recommendation fails to comply with the criteria for approval and no appeal was filed or City Council review requested; and,

**WHEREAS**, an appeal was filed within the fifteen (15) day appeal period by Mr. and Mrs. Scotch Ndlovu on May 6, 2008; and,

**WHEREAS**, the City Council hereby makes the following findings of fact:

1. The Subject Property is an interior lot, is zoned R-R (Rural Residential) and contains 11,403 square feet.
2. The Subject Property is improved with a single-family dwelling, an in-ground swimming pool, an 8-foot by 10-foot shed, and driveway.
3. In 2007, the Applicant graded along the southern property line and installed a concrete block retaining wall to eliminate a slope. The re-established area was then paved with asphalt, resulting in approximately 241 square feet of additional driveway. The Applicant also constructed a 28-foot by 12-foot carport between the existing dwelling and the southern lot line of the Subject Property. The height of the carport varies from 7', 1" at the lot line to 8', 10", meeting the roofline of the house's attached garage. The carport extends approximately two (2) feet closer to Paddock Lane than the dwelling. None of the work done by the Applicant received the proper permits from either the City or County.
4. The Prince George's County Department of Environmental Resources determined that a County building permit is required. The MNCPPC Permit Review Section determined that Variances are required from lot coverage and side yard setback requirements of the Zoning Ordinance.
5. The applicant is requesting, "after the fact", a Variance from lot coverage requirements to validate the construction of additional driveway paving and a Variance from the 8-foot minimum side yard setback to validate a carport addition constructed without a building permit.

6. The Prince George's County Zoning Ordinance, in Section 27-442 (c) (Table II) and (e) (Table IV), prescribes that no more than 25% of the net lot area may be covered by buildings and off-street parking and that a minimum side yard setback of eight (8) feet for principal structures be maintained. The Applicant requests a Variance of 6.3% to validate the construction of additional driveway width and a Variance of eight (8) feet to validate the existing carport, which extends from the existing dwelling all the way to the (south) side lot line.
7. Staff mailed the required notice to neighboring property owners. There was no response from those notified of the Variance request.

**WHEREAS**, the City Council hereby makes the following conclusions of law:

1. The specific parcel of land does not have exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions. The Subject Property is a typical interior lot with side lot lines that angle slightly outward from the front to the rear of the lot. The front lot line along Paddock Lane is 71.28 feet wide, while the rear lot line is slightly wider at 114 feet in width. The topography of the Subject Property is typical of many lots in the Pointer Ridge neighborhood. The Subject Property contains a large amount of developable area, much of which has already been improved, and there are no unusual features or characteristics present. The City Council concludes that the Subject Property does not have exceptional narrowness, shallowness, shape or exceptional topographic conditions or other extraordinary situations or conditions.
2. The strict application of the Zoning Ordinance does not result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. The house previously had a two-car garage that was partially converted to a bedroom by a former owner. A one-car, attached garage remains. The Applicant noted that the number of drivers in the household has increased, requiring more driveway area, and that the slope of their driveway makes it difficult to park cars there. The Applicant also believes that having a parking area close to the dwelling will allow their vehicles to be safer and more secure than if they were parked on the street. The City Council finds that all of the factors cited relate to the personal circumstances of the Applicant, not to the property as required by this criterion. The City Council concludes that the strict application of the Zoning Ordinance will not result in a peculiar and unusual practical difficulty to, or exceptional or undue hardship upon, the owner of the property.
3. The Variance will substantially impair the intent, purpose, or integrity of the General Plan or Master Plan. The Applicant is requesting a Variance that will allow the Subject Property to be improved beyond

the limits of lot coverage and the minimum side yard building setback. A waiver of 100% of the building setback is requested.

The Subject Property is located within a "Residential, Low" 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 City Council concludes that approval of the Variance request will allow development of the Subject Property in a way that would be harmful to the character of the surrounding residential neighborhood, thus violating the policy and strategy identified for the Developing Tier in the Master Plan. Therefore, the City Council concludes that approval of the Variance request will substantially impair the intent, purpose or integrity of the Master Plan or the General Plan.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Bowie hereby adopts Resolution R-33-08 for BV-1-08 to **DENY** variances from Section 27-442 (c)(Table II) and (e)(Table IV) of the Prince George's County Zoning Ordinance to allow 6.3% lot coverage above the 25% maximum and to allow a structure to be constructed eight (8) feet into the required minimum 8-foot side yard setback at 1307 Paddock Lane.

**INTRODUCED AND PASSED** on this Sixteenth day of June 2008, by the City Council of the City of Bowie.

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G. Frederick Robinson  
Mayor

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Pamela A. Fleming  
City Clerk

**RESOLUTION OF THE BOWIE ADVISORY PLANNING BOARD  
RECOMMENDING DENIAL OF VARIANCE BV-1-08, A REQUEST FOR  
VARIANCES FROM SECTION 27-442 (c) (TABLE II) AND (e) (TABLE IV) OF  
THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE TO ALLOW 6.3%  
LOT COVERAGE ABOVE THE 25% MAXIMUM AND TO ALLOW A  
STRUCTURE TO BE CONSTRUCTED EIGHT (8) FEET INTO THE REQUIRED  
MINIMUM 8-FOOT SIDE YARD SETBACK TO VALIDATE EXISTING  
CONDITIONS AT 1307 PADDOCK LANE**

WHEREAS, the City of Bowie (hereinafter the "City"), pursuant to the City Code (hereafter the "Code"), 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,

WHEREAS, the Bowie Advisory Planning Board (hereinafter "BAPB") is authorized by the Code to recommend the granting of an application for a Variance if 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 January 2, 2008, Mr. and Mrs. Scotch Ndlovu (hereinafter the "Applicant") of 1307 Paddock Lane (hereinafter "Subject Property") submitted an application for a Variance from Section 27-442 (c)(Table II) and (e) (Table IV) of the Zoning Ordinance for the above address, specifically requesting a Variance to allow 6.3% lot coverage above the 25% maximum and to allow a structure to be constructed eight (8) feet into the required 8-foot minimum side yard setback to validate existing conditions in the R-R (Rural Residential) zone; and,

WHEREAS, the advertisement of the public hearing was printed in the local newspaper on April 10, 2008 in accordance with the Code; and,

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

**WHEREAS**, on April 22, 2008, the BAPB heard testimony and accepted evidence with respect to whether it can make the necessary findings set forth in the Ordinance to recommend the granting of a Variance; and,

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

**WHEREAS**, the BAPB's recommendation for **DENIAL** on April 22, 2008 was based on the findings and analysis found in the technical staff report; and,

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

1. The Subject Property is an interior lot, is zoned R-R (Rural Residential) and contains 11,403 square feet.
2. The Subject Property is improved with a single-family dwelling, an in-ground swimming pool, an 8-foot by 10-foot shed, and driveway.
3. In 2007, the Applicant graded along the southern property line and installed a concrete block retaining wall to eliminate a slope. The re-established area was then paved with asphalt, resulting in approximately 241 square feet of additional driveway. The Applicant also constructed a 28-foot by 12-foot carport between the existing dwelling and the southern lot line of the Subject Property. The height of the carport varies from 7', 1" at the lot line to 8', 10", meeting the roofline of the house's attached garage. The carport extends approximately two (2) feet closer to Paddock Lane than the dwelling. None of the work done by the Applicant received the proper permits from either the City or County.
4. The Prince George's County Department of Environmental Resources determined that a County building permit is required. The MNCPPC Permit Review Section determined that Variances are required from lot coverage and side yard setback requirements of the Zoning Ordinance.
5. The applicant is requesting, "after the fact", a Variance from lot coverage requirements to validate the construction of additional driveway paving and a Variance from the 8-foot minimum side yard setback to validate a carport addition constructed without a building permit.
6. The Prince George's County Zoning Ordinance, in Section 27-442 (c) (Table II) and (e) (Table IV), prescribes that no more that 25% of the net lot area may be covered by buildings and off-street parking and that a minimum side yard setback of eight (8) feet for principal structures be maintained. The Applicant requests a Variance of 6.3% to validate the construction of additional driveway width and a Variance of eight (8) feet to validate the existing carport, which extends from the existing dwelling all the way to the (south) side lot line.

7. Staff mailed the required notice to neighboring property owners. There was no response from those notified of the Variance request.

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

1. The specific parcel of land does not have exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions. The Subject Property is a typical interior lot with side lot lines that angle slightly outward from the front to the rear of the lot. The front lot line along Paddock Lane is 71.28 feet wide, while the rear lot line is slightly wider at 114 feet in width. The topography of the Subject Property is typical of many lots in the Pointer Ridge neighborhood. The Subject Property contains a large amount of developable area, much of which has already been improved, and there are no unusual features or characteristics present. The BAPB concludes that the Subject Property does not have exceptional narrowness, shallowness, shape or exceptional topographic conditions or other extraordinary situations or conditions.
2. The strict application of the Zoning Ordinance does not result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. The house previously had a two-car garage that was partially converted to a bedroom by a former owner. A one-car, attached garage remains. The Applicant noted that the number of drivers in the household has increased, requiring more driveway area, and that the slope of their driveway makes it difficult to park cars there. The Applicant also believes that having a parking area close to the dwelling will allow their vehicles to be safer and more secure than if they were parked on the street. The BAPB finds that all of the factors cited relate to the personal circumstances of the Applicant, not to the property as required by this criterion. The BAPB concludes that the strict application of the Zoning Ordinance will not result in a peculiar and unusual practical difficulty to, or exceptional or undue hardship upon, the owner of the property.
3. The Variance will substantially impair the intent, purpose, or integrity of the General Plan or Master Plan. The Applicant is requesting a Variance that will allow the Subject Property to be improved beyond the limits of lot coverage and the minimum side yard building setback. A waiver of 100% of the building setback is requested.

The Subject Property is located within a "Residential, Low" 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:

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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 concludes that approval of the Variance request will allow development of the Subject Property in a way that would be harmful to the character of the surrounding residential neighborhood, thus violating the policy and strategy identified for the Developing Tier in the Master Plan. Therefore, the BAPB concludes that approval of the Variance request will substantially impair the intent, purpose or integrity of the Master Plan or the General Plan.

**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 that Variance BV-1-08 to allow 6.3% lot coverage above the 25% maximum and to allow a principal structure to be constructed eight (8) feet into the required 8-foot minimum side yard setback to validate existing conditions be **DENIED.**

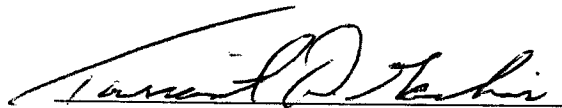
The following members were present and voted as follows:

<u>Name of BAPB Member</u>	<u>Vote</u>	
	<u>In Favor</u>	<u>Opposed</u>
Toussaint Gaskins, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
James Golato, Vice Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Skotz	<input type="checkbox"/>	<input type="checkbox"/>
Raymond Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Deidre Trass	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Terry Rogers, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Willis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jarnot Troyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christine Hedman	<input checked="" type="checkbox"/>	<input type="checkbox"/>

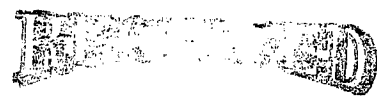
*Absent*

So recommended this 22<sup>nd</sup> day of April, 2008.

BOWIE ADVISORY PLANNING BOARD



Mr. Toussaint Gaskins  
Chairman



To: Bowie City Council  
From: Scotch and Lois Ndlovu  
Subject: Property at 1307 Paddock Lane  
Date: 5/1/08  
RE: Property at 1307 Paddock Lane

MAY 06 2008

**Bowie City Clerk's Office**

Whereas the Bowie Advisory Planning Board, as a system, reviewed our request for a variance and made a denial decision.  
And, whereas our request was based on honest assessment of the situation on the ground.  
And, whereas the Advisory Planning Board, acted in accordance with the Council's laws and by-laws  
And, whereas those by-laws seem to be selectively applied to certain properties.  
And, whereas the hearing endorsed a pre-existing recommendation.

We present this appeal based on the following rationale.

1. As residents of Bowie City, we believe that the City Council should consider individual cases. We believe that there is a uniqueness to our situation and would appreciate a re-consideration based on that.
2. The situation on the ground lends itself to a different conclusion the Council should come to.
  - The carport can easily be torn down despite the financial loss incurred
  - The drive way under the carport was constructed in such a way that it might take heavy machinery to tear it up. Due to the slope existing prior to the drive way, most areas were sunk to depths nearing 12 inches of concrete.
  - The cost of that construction was enormous and for the Council to ignore that situation would be a slap on the face of its residents. It would send the message that the Council does not care
3. By-laws are man-made and should always respond to human needs.
  - We are originally from Zimbabwe, a country on the list of US Department for unmitigated violations of human rights.
  - About four years ago Zimbabwe embarked on what it called "Operation Reject Dirt"
  - The regime required residents to destroy existing structures it considered illegally.
  - Where residents were slow to act, the regime brought bull dozers and raised all those structures to the ground.
  - The US was one of the most vocal critics of this inhuman destruction of property done in the name of restoring the beauty
  - Here we are being asked to do almost precisely the same thing. We believe that the Bowie City Council is more human than that.

4. Pre-existing recommendation

- A unanimous decision on our case shocked us. The Council endorsed a recommendation of its investigative body without giving consideration to its residents.
- We believe that, as hard working residents of Bowie, we deserve some recognition.
- We admitted that our actions were based on ignorance of existing by-laws and it would seem that some accommodation should have been made in our favor.

We specifically request the Council to grant us special permission to, at least, keep the drive way. Digging it up would be a lot of work and we do not know where we would be allowed to dump the concrete.

If the Council still feels the same, where else can we appeal our case? We hope there won't be need for further appeals and the Council will grant us at least this one request.

We have already complied with another "violation" we received the day after the hearing when we were ordered to remove the tractor which was parked in the carport. We are a family which combines humanitarian aid to Zimbabwe with shipping of farm equipment to that country. The tractor and other farm equipment are awaiting shipment to Zimbabwe. We have done this every year but this year the economic conditions forced us to post pone shipping the container for a few months.

Thank you for taking time to hear our appeal.

Sincerely,

  
Scotch and Eois Ndlovu