

**WALKERSVILLE BOARD OF APPEALS
MINUTES
August 10, 2022**

Board members present: Jason Bryant, Vaughn Zimmerman, Dave Albertson and alternate Arthur Russell. Also present: Zoning Administrator Susan Hauver and Town Attorney Ian Bartman. Chairman Jason Bryant called the meeting to order 5:00 p.m.

1. Agenda

By common consent, the Board approved the agenda as proposed by staff.

2. Minutes

The minutes of the December 7, 2021 meeting were unanimously approved.

3. W-B-2022-01 Michael Valenti, 200 Solar Drive, Request for a 2 foot setback variance to allow an unenclosed front porch to extend 8 feet into the required front yard

All persons in the audience who intended to testify at the hearing were sworn in by Chairman Bryant.

Ms. Hauver presented the attached staff report. There were no questions from Board members about the staff report.

Mr. Michael Valenti presented his case. They would like the variance to built a covered porch in the front of their house since their backyard is too narrow for a porch or deck. They would be able to sit and watch their kids play at the park across the street.

There were no public comments.

Mr. Albertson said he had no issues with the request. He noted that the corner lots in Sun Meadow were peculiar with an exceptionally tight back yard. He felt the variance could be justified based on the peculiarity of the lot.

Mr. Albertson made a motion, seconded by Mr. Zimmerman, to approve the variance based on the shallowness of the lot. The variance was approved on 3-0 vote.

4. W-B-2022-02 Gabriel Alicea Rodriguez, 122 Glade Boulevard, Request for a special exception to operate a barber shop having one chair in a single family home in the R-2 residential zoning district

All persons in the audience who intended to testify at the hearing were sworn in by Chairman Bryant.

Ms. Hauver presented the attached staff report, which included the following attached exhibits:

- A. Photos of property, taken 8/2/22
- B. Letter from Town Planning & Zoning Administrator to property owner, 6/14/22
- C. Application for Special Exception, 6/21/22
- D. Statement from property owner (handwritten in Spanish, typewritten English translation, 6/30/22)
- E. Aerial photo of property, Frederick County GIS
- F. Letter from Glade Town Community Association to Town staff, 6/21/22
- G. Department of Assessments and Taxation property information

There were no questions from Board members about the staff report.

Mr. Alicea Rodriguez was represented by his attorney, Mr. Matthew Alman. Mr. Alman noted Mr. Alicea's health problems that restrict his ability to drive. He said that he would only take appointments, so lines of customers would not accumulate. He is open to accommodations to block the view of the garage, or would be willing to move the chair inside the house. He said there was street parking available in front of the lot as well as in front of the open space next to the lot.

Mr. Alman submitted four exhibits:

- Applicant Exhibit 1 – State of Maryland Limited Barber Stylist license issued to Gabriel Alicea Rodriguez, with an expiration date of 05-31-2024.
- Applicant Exhibit 2 – Note from Julio Menocal, M.D. documenting the applicant's disability and stating "he is not able to drive currently and has been advised to work from home."
- Applicant Exhibit 3 – Photo of open garage door covered by sheet
- Applicant Exhibit 4 – Photo of barber chair and stool in garage with sheet over the doorway

In response to questions, Mr. Alman said that Mr. Alicea's preference would be to operate in the garage with the sheet blocking the view from the street. He would not put in a sign or barber pole. He offered that Mr. Alicea has family in the area and does have friends and family over. He would be happy to apply for approval from the HOA, and said that his business would not be different from other people working from home.

In a response to a question from Mr. Zimmerman about the need for air to flow through the garage, Mr. Alicea said that the garage has heat and air conditioning so air does flow through the space.

Mr. Albertson asked about the HOA complaint and Mr. Alicea said that he started cutting hair for family members for practice and entertainment. He has more recently obtained a State license to be a barber. He would be willing to move the chair inside the house and leave the garage and two parking spaces in the driveway open for parking. He would only be open by appointment.

Mr. Brian Pham, 102 Glade Boulevard, said that Mr. Alicea had cut his hair for free. Mr. Alicea had explained to him that he has seizures and could not drive. Mr. Pham said that the work area is clean and the Health Inspector was pleased. Mr. Alicea is not disturbing the peace, there is plenty of parking open all the time and Mr. Pham would like to support the application.

Ms. Mary Ann Brodie-Ennis, 118 Challedon Drive, wanted to clarify that the property to the right side of the property is owned by the HOA and is common ground for the development. There is no potential for parking on that property. She also doubted that two cars could park in the applicant's driveway without blocking the sidewalk.

Ms. Mary Ann Ferguson, representing the Glade Towne Community Association, said that Mr. Alicea had been requested to appear before the Board of Directors. He was denied permission to operate the barber shop. The HOA has received many neighbor complaints and traffic complaints. She submitted Glade Towne Association Exhibit 1 & 2, which included four photographs of the property and the adjacent common area with property corner markers circled in red.

Ms. Ferguson said that the applicant's curtain had been disapproved. She submitted Glade Towne Association Exhibit 3, which was a letter dated July 19, 2022 from the Association to the property owners stating that the tent canopy installed in front of the garage was in violation of their covenants and that the business must cease operation and the canopy removed.

Mr. Zimmerman asked Town counsel about whether the HOA's denial of the use would constrain the Board from approving the use. Mr. Bartman explained that the HOA and Town are separate. The applicant is subject to the Town's zoning authority and to the HOA separately. The public and private entities present separate sets of issues, and the applicant is subject to both. It is possible that the Town could approve something the HOA denies, and vice versa.

Mr. Damon Oberdorf, Glade Towne property owner and former Board President, said that the former Community Manager of 20 years was more relaxed about the standards and had approved the plastic sheeting in 2021.

Ms. Mary Ann Schouw, current Glade Towne Community Manager said the HOA had received complaints from neighbors about increased street and pedestrian traffic, the tent outside the residence, and many more than two people gathered in the tent area. The canopy and plastic sheeting were removed after the association met and denied the request. They had heard reports of more than ten cars parked on the street and that money had been exchanged when a neighbor received a haircut.

In rebuttal, Mr. Alman said that there was confusion about the activity at the home. There are four people living in the home, and friends and family in the area come to visit daily. Mr. Alicea would be willing to move the barber chair inside. He said that the traffic issues reported by neighbors occur on other roads and were not the result of the applicant's activity. He said the barbershop could be moved inside and would operate by appointment only, with one or two customers onsite at any time.

Mr. Alman reiterated that the applicant and his family might host family and friends at his home, which could account for the numbers of people reported on site by neighbors. Running the business is separate from friends and family members coming to the house to visit. Also, Mr. Alicea understands that the HOA needs to approve the use. He would be willing to free up the garage for parking.

In response to questions from Board members, Mr. Alicea offered that his business hours would be 10 am to 7:30 pm, seven days a week. He stays in the house, since he has health problems. He also offered that he takes tips from customers and has no set price for a haircut. Right now, he does it for entertainment.

Ms. Ferguson pointed out that the photograph on Glade Towne Association Exhibit 3 shows that there is not enough space in the driveway for the required parking. She stated that the special exception should be denied. She cited parking and safety issues.

Mr. Brian Pham questioned the safety concerns.

By common consent, the Board approved the four exhibits from the applicant and the three from the Glade Towne Community Association to be entered into the record.

Board members discussed the case and determined that the issue is the parking. If the applicant cannot meet all the conditions set forth in Section 88-31E, the special exception cannot be approved.

Mr. Zimmerman made a motion, seconded by Mr. Albertson, to deny special exception request #W-B-22-02 because the applicant does not meet the requirement in Section 88-31E requiring three off street parking spaces to establish a barber shop. The special exception was denied on a vote of 3-0.

Board members agreed to meet on September 6, 2022 to review and approve the minutes for tonight's hearings.

There being no other business, the meeting was adjourned on a motion by Mr. Zimmerman and seconded by Mr. Albertson.

Respectfully submitted,

Susan J. Hauver