

RESOLUTION

WHEREAS, the Prince George’s County Planning Board is charged with approval of Specific Design Plans pursuant to Part 8, Division 4 of the Zoning Ordinance of the Prince George’s County Code; and

WHEREAS, in consideration of evidence presented at a public hearing on January 12, 2017, regarding Specific Design Plan SDP-0619-H1 for Bealle Hill Forest, Block B, Lot 19 (Coates Gazebo), the Planning Board finds:

1. **Request:** The subject homeowner’s minor amendment to a specific design plan (SDP) is a request to construct a 16-foot octagonal gazebo in the rear yard of an existing single-family detached dwelling within the rear-yard setback.

2. **Development Data Summary:**

EXISTING	
Zone	R-L
Use	Residential
Lot size	21,859 square feet
Lot	1
Number of Dwelling Unit	1

	REQUIRED	PROVIDED
Total parking spaces	2	6

3. **Location:** The subject property is located on the southeast corner of the intersection of Bealle Hill Forest Lane and Bellevue Ridge Road, within the Bealle Hill Forest Subdivision. The property is also located in Planning Area 84 and Council District 9.

4. **Surrounding Uses:** The subject property is bounded to the east and south by single-family detached units, to the west by the public right-of-way of Bealle Hill Forest Lane with single-family detached units beyond, and to the north by the public right-of-way of Bellevue Ridge Road, with single-family detached units beyond, in the Residential Low Development (R-L) Zone.

5. **Previous Approvals:** The application has a previously approved Zoning Map Amendment (Basic Plan) A-9874-C, as incorporated into District Council Resolution CR-60-1993, Comprehensive Design Plan CDP-9503 (PGCPB Resolution No. 98-51), Preliminary Plan of Subdivision 4-06069 (PGCPB Resolution No. 07-10(C)), Specific Design Plan SDP-0619 (PGCPB Resolution No. 08-02(C)), and Final Plat 5-08213, recorded in the Prince George’s County Land Records in Plat Book PM 229 @ 11.

6. **Design Features:** The subject application includes a proposal for a 16-foot dark bronze metal octagonal gazebo, with a concrete base, in the rear yard of an existing single-family detached dwelling, which was constructed in 2012. The subject property, known as Lot 19, Block B of Bealle Hill Forest, is an interior lot with an existing dwelling, which fronts on Bealle Hill Forest Lane to the west. The proposed gazebo, which was constructed without permits in approximately 2015, is free-standing and is located approximately 13 feet from the rear property line, which encroaches approximately seven feet into the rear-yard setback.

COMPLIANCE WITH EVALUATION CRITERIA

7. **Prince George's County Zoning Ordinance:** The project is in compliance with Section 27-515 of the Zoning Ordinance regarding uses permitted in the R-L Zone. A single-family detached dwelling is a permitted use in the R-L Zone. The project is also in compliance with the requirements of Section 27-514.10, which includes regulations applicable to the R-L Zone. The project also conforms to the requirements of Section 27-528 regarding required findings for SDP applications and Section 27-530 regarding amendments to approved SDP applications. See Findings 16 and 17 below for a more detailed discussion of this conformance.
8. **Zoning Map Amendment (Basic Plan) A-9874-C:** The project is in compliance with the requirements of Basic Plan A-9874-C, as incorporated into District Council Resolution CR-60-1993. The proposed gazebo in the rear-yard setback does not alter the previously made findings of approval of the basic plan that were made at the time of approval of the CDP.
9. **Comprehensive Design Plan CDP-9503:** The project is in compliance with the requirements of Comprehensive Design Plan CDP-9503, except regarding the required rear-yard setback. Whereas the CDP stipulates a 20-foot minimum rear-yard setback, the proposed gazebo would sit approximately 13 feet from the rear property line.
10. **Bealle Hill Forest, Plat Eleven, recorded as Plat Book PM 229 @ 11:** The subject project is in compliance with the requirements contained in the plat notes of Bealle Hill Forest, Plat Eleven, recorded as Plat Book PM 229 @ 11.
11. **Specific Design Plan SDP-0619 and its revisions:** Specific Design Plan SDP-0619 was approved by the Planning Board in 2008 for 79 single-family detached houses with 19 conditions. SDP-0619 was revised seven times administratively. This application does not have any impact on the previous findings and conditions. The subject project is in compliance with the requirements of Specific Design Plan SDP-0619, except for the rear-yard setback. The proposed gazebo would sit approximately 13 feet from the rear property line. The Homeowner's Minor Amendment to Comprehensive Design Plan CDP-9503-H1 allows the encroachment into the rear-yard setback.

12. **2010 Prince George's County Landscape Manual:** The requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) were fulfilled at time of SDP-0619 approval for this site.
13. **Prince George's County Tree Canopy Coverage Ordinance:** The subject application is exempt from the Tree Canopy Coverage Ordinance because the applicant proposes less than 5,000 square feet of gross floor area or disturbance.
14. **Prince George's County Woodland Conservation and Tree Preservation Ordinance:** The subject lot does not contain any woodland conservation. The addition of the proposed gazebo would not alter the previous findings regarding conformance with the Woodland Conservation and Tree Preservation Ordinance that were made at the time of approval of the CDP, preliminary plan of subdivision, and SDP.
15. **Further Planning Board Findings and Comments from Other Entities:** The application was referred to the concerned agencies and divisions. Referral comments are summarized as follows:
 - a. **Bealle Hill Forest Homeowners' Association, Inc.**—In a letter dated June 20, 2016, Bealle Hill Forest Homeowners' Association, Inc. indicated that the request for a gazebo associated with this application had been approved.
 - b. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE)**—In a memorandum dated November 4, 2016, DPIE provided the following comments:
 - (1) The applicant proposes to build a backyard gazebo within a recorded County stormdrain easement (L. 30402, F. 289). The ground elevation is surveyed at 302.4 feet and the existing stormdrain top of pipe elevation is determined at 296.4 feet. The proposed bottom of the gazebo footings is set at elevation 299.4 feet.
 - (2) DPIE has no objection to a proposed gazebo in the backyard, provided it is not located within the recorded County stormdrain easement.

The submitted application is necessary to allow the constructed gazebo to be within the required rear-yard setback established by the original CDP approval. DPIE is correct that the already constructed gazebo lies within a recorded stormdrain easement, above an existing pipe. The 35-foot-wide easement, which covers the majority of the rear yard along the entire rear property line, is not shown on the record plat and was not known to the homeowner when the lot was purchased and subsequently when the gazebo was built. The homeowner indicated that the homeowners association will not allow a gazebo within the front or side yards of the home, therefore, leaving no possibility to relocate the gazebo outside of the rear yard. They also proffered that at such time as the stormdrain pipe requires maintenance, they are willing to remove the gazebo at their expense.

The Planning Board found that the subject SDP application is required in order to keep the gazebo where it is right now. The gazebo being within an easement is a separate issue, which DPIE has the jurisdiction over through their permitting process. After approval of this application, the homeowner still has to obtain approval of a permit for the gazebo, which may be denied by DPIE and can then be appealed through the appropriate processes relative to permit approval. The Planning Board found that the proposed gazebo meets all of the required findings for approval of a homeowner's minor amendment to an SDP.

16. As required by Section 27-528(a) of the Zoning Ordinance, the Planning Board must make the required findings for approval of a SDP, as follows:

(1) The plan conforms to the approved Comprehensive Design Plan, the applicable standards of the Landscape Manual, and except as provided in Section 27-528(a)(1.1), for Specific Design Plans for which an application is filed after December 30, 1996, with the exception of the V-L and V-M Zones, the applicable design guidelines for townhouses set forth in Section 27-274(a)(1)(B) and (a)(11), and the applicable regulations for townhouses set forth in Section 27-433(d) and, as it applies to property in the L-A-C Zone, if any portion lies within one-half (1/2) mile of an existing or Washington Metropolitan Area Transit Authority Metrorail station, the regulations set forth in Section 27-480(d) and (e);

(1.1) For a Regional Urban Community, the plan conforms to the requirements stated in the definition of the use and satisfies all requirements for the use in Section 27-508 of the Zoning Ordinance;

The subject homeowner's amendment to an SDP conforms to the approved Comprehensive Design Plan, CDP-9503, and is consistent with the standards of the Landscape Manual as approved in SDP-0619. The proposed development is not in a regional urban community.

2. The development will be adequately served within a reasonable period of time with existing or programmed public facilities either shown in the appropriate Capital Improvement Program, provided as part of the private development or, where authorized pursuant to Section 24-124(a)(8) of the County Subdivision Regulations, participation by the developer in a road club;

This finding was made with the approval of the original SDP and will not be affected by the proposed gazebo.

3. Adequate provision has been made for draining surface water so that there are no adverse effects on either the subject property or adjacent properties;

This finding was made with the approval of the original SDP and will not be affected by the proposed gazebo.

4. The plan is in conformance with an approved Type 2 Tree Conservation Plan; and

The addition of the proposed gazebo does not alter the previous findings of conformance with an approved Type 2 tree conservation plan that were made at the time of approval of the original SDP.

5. The plan demonstrates that the regulated environmental features are preserved and/or restored to the fullest extent possible in accordance with the requirement of Subtitle 24-130(b)(5).

The subject lot does not contain any regulated environmental features that are required to be preserved and/or restored.

17. Section 27-530(c)(3) of the Zoning Ordinance sets forth the criteria for granting minor amendments to approved SDPs for the purpose of making home improvements requested by a homeowner (or authorized representative) and approved by the Planning Director (or designee) in accordance with specified procedures including meeting the following criteria:

- (A) Are located within the approved Comprehensive Design Plan building lines and setbacks or any approved amendments to the Comprehensive Design Plan;**
- (B) Are in keeping with the architectural and site design characteristics of the approved Specific Design Plan; and**
- (C) Will not substantially impair the intent, purpose, or integrity of the approved Comprehensive Design Plan.**

The CDP for the subject project established the rear-yard setback at a minimum of 20 feet total. However, the gazebo is proposed approximately 13 feet from the property line. The subject application does not meet criterion (A) and, therefore, the associated Homeowner's Minor Amendment to a Comprehensive Design Plan CDP-9503-H1, requesting the same setback modification was filed concurrently with this SDP and was approved by the Planning Board.

In regards to criterion (B) above, the proposed gazebo is consistent with the architectural and site design characteristic of the approved SDP, except in regards to the rear-yard setback. The proposed gazebo is to be made of metal and concrete, which are high-quality materials.

In regards to criterion (C), the Planning Board found that the requested gazebo will not substantially impair the intent, purpose, or integrity of the approved CDP. The modification of the rear building restriction line to 13 feet for the proposed gazebo will not be detrimental to the community, nor will it negatively impact the visual characteristics of the neighborhood because the

gazebo sits over 60 feet from the adjacent homes to the east and south and over 90 feet from the nearest public right-of-way, affording privacy to the occupants of both the subject property and the adjacent homeowners.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED Specific Design Plan SDP-0619-H1 for the above-described land, subject to the following condition:

1. Prior to certification, the applicant shall provide a site plan note as proffered below:

"The homeowner is willing to remove the gazebo at their own expense at such time in the future when the stormdrain pipe requires maintenance."

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washinton, Bailey, Doerner, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, January 12, 2017, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 2nd day of February 2017.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:JK:rpg

APPROVED AS TO LEGAL SUFFICIENCY


M-NCP&C Legal Department

Date 1/25/17