

Resolution No. R-23-2023
Adopted: December 13, 2023

A Resolution of the Mayor and Town Council of Kensington approving a Variance to allow a six-foot (6') entry gate within the front plane of the southwest corner of the property located at 3419 Dupont Avenue, in accordance with Section 5-109, "Fences, Walls, and Retaining Walls", of the Town Code.

WHEREAS, the Town received a permit application for the installation of an entry gate by Margaret "Margy" Rodgers, ("the Applicant"), for certain real property located at 3419 Dupont Avenue, ("the Property"); and

WHEREAS, the proposed entry gate would exceed the allowed height of a fence within the front plane of a residential property, in accordance with Section 5-109, "Fences, Walls, and Retaining Walls", of the Town Code; and

WHEREAS, the Applicant has filed a Variance request before the Town Council to allow for a six-foot (6') entry gate within the front plane of the property located at 3419 Dupont Avenue; and

WHEREAS, the Town Council may grant a petition for a Variance after a hearing when the Council finds that:

1. Strict application of the Town regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property;
2. The Variance is the minimum reasonably necessary to overcome any exceptional conditions; and
3. The Variance can be granted without substantial impairment of the intent, purpose, and integrity of this article.

WHEREAS, the Mayor and Council conducted a Public Hearing on the Variance request at the November 8, 2023, Council meeting, after due notice to the public and to the adjacent neighbors, and received testimony on the requested Variance. The Council closed the record following the Public Hearing.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Kensington, based on the testimony presented at the Public Hearing on November 8, 2023, and evidence submitted, adopts the following findings of fact and conclusions of law:

Findings of Fact:

1. Margaret “Margy” Rodgers (“the Applicant”), is the owner of 3419 Dupont Avenue, Kensington, Maryland, which is zoned single-family residential (“the property”).
2. The property has an existing four-foot (4’) fence within the front plane of the property.
3. The Applicant has requested to install a six-foot (6’) entry gate within the southwest corner of the property to prevent access between 3419 Dupont Avenue and 10701 St. Paul Street, which has a steep drop from the existing retaining wall into southeast corner of 10701 St. Paul Street.
4. The property owners at 10701 St. Paul Street, Aurora Elmore and Aleks Nakutis, provided a letter in support of the Variance.
5. The property owner at 3417 Dupont Avenue, Ron Walters, provided a letter in support of the Variance.

Conclusions of Law:

1. The Strict application of the Town’s regulations would result in peculiar and unusual practical difficulties due to the grade drop between 3419 Dupont Avenue and 10701 St. Paul Street, where the Council found that the existing passageway was unsafe, and a gate was necessary to restrict access to the property.
2. The proposed Variance is the minimum necessary to overcome the unique condition of the topography.
3. The Variance can be granted without impairment of the intent, purpose, and integrity of this article.

BE IT FURTHER RESOLVED THAT the Variance request to install a six-foot (6’) entry gate within the front plane of the southwest corner of the property located at 3419 Dupont Avenue be and it is hereby granted.

ADOPTED by the Town Council of Kensington, Maryland at the regular public meeting assembled on the 13th day of December, 2023.

EFFECTIVE the 13th day of December, 2023.

ATTEST: TOWN OF KENSINGTON, MARYLAND

By: Susan C. Engels
Susan C. Engels, Clerk – Treasurer

Tracey C. Furman
Tracey C. Furman, Mayor