

PC Accepted 11-06-2019

Ordinance No:	<u>2019-18</u>
Accepted by Planning Commission:	<u>11/06/2019</u>
Introduced by Town Council:	<u>xx/xx/2019</u>
Two Newspaper Advertisements:	<u>xx/xx/2019</u>
	<u>xx/xx/2019</u>
Public Hearing:	<u>xx/xx/2019</u>
Enacted:	<u>xx/xx/2019</u>
Effective:	<u>xx/xx/2020</u>

ORDINANCE
 AMENDING THE WASHINGTON GROVE ZONING ORDINANCE
 TO MODIFY THE MINIMUM LOT SIZE STANDARDS FOR THE RR-3 ZONE

PART 1. Background:

- A. Michael D. Schank and Marisel Schank, are owners of the property at 302 Ridge Road (“Property”) also known as Parcel 291 on Tax Map GT11 in the 9th Election District of Montgomery County, Maryland, Tax Account Number 09-00769166. The Property is a single parcel comprising approximately 0.95 acres of land that was annexed into the Town of Washington Grove (“Town”) in 1995 and classified in the RR-3 Zone. The Property is the only parcel in the RR-3 Zone.
- B. The owners of the Property have submitted a request dated September 9, 2019, to the Town’s Planning Commission asking the Planning Commission to consider a zoning text amendment that would allow a subdivision of the Property into two lots without removing any of the current structures. The owners state they would not seek to further split the Property or remove any current structure.
- C. The Planning Commission filed an application for a zoning text amendment to reduce the RR-3 minimum lot size area from 20,000 to 13,900 square feet, and to reduce the RR-3 width at building line from 100 to 75 feet. The Planning Commission concludes this combination of standards would allow a straight dividing line between the two lots, parallel to and 76 feet from the western property boundary line, and would limit subdivision of the Property to two buildable lots. The existing home on the Property is 91 feet 3 inches from this boundary line, according to prior building permit records, and would comply with the required 15-foot side setback.
- D. The Town’s Master Plan includes a recommendation to promote new and renewed development to be in physical scale with surroundings and neighbors. The Planning Commission notes the proposed RR-3 Zone lot size standards are between those of the neighboring RR-1 and RR-4 Zones, and concludes the proposed zoning text amendment is consistent with this Master Plan recommendation.
- E. The existing home on the Property (ca. 1880-95) has been identified as a contributing structure to the Washington Grove Historic District.
- F. The Planning Commission accepted the application for a text amendment to the Washington Grove Zoning Ordinance on November 6, 2019. The Zoning Ordinance is Article VII of the Code of Ordinances of the Town of Washington Grove, and all subsequent Section references are to Article VII. The application for zoning text amendment was filed and

<u>CAPS</u>	: Indicate matter added to existing law as Introduced.
[Brackets]	: Indicate matter deleted from law as Introduced.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
<i>Italics (bold)</i>	: Indicate matter added after Introduction.
[Brackets-Italics-bold]	: Indicate matter deleted after Introduction.

MODIFYING RR-3 ZONE STANDARDS

Rationale

The RR-3 Zone was established with the 1995 annexation of the 0.95-acre parcel located at 301 Ridge Road requested by property owners Kermit Moyer and Amy Gussack. For this new RR-3 Zone, the Town used standards then matching the County's R-200 Zone, e.g. minimum lot size area of 20,000 square feet and minimum lot width at building line as 100 feet, and these standards have not changed. This property, Parcel 291 on Tax Map GT 121, now with address 302 Ridge Road, is owned by Mike and Marisel Schank, and remains the only property within the Town's RR-3 Zone. According to tax records, this property has a total area of 41,382 square feet. Using the distances from the Schank's deed (Liber 35782 Folio 558), the calculated total area of the property is 41,397 square feet.

In 2000, the Town annexed 11 properties comprising 13.55 acres of land, including Washington Grove Hills Subdivision Lots 1 through 9, and Parcels 238 and 303 (Voigt properties), all with a new RR-4 Zone. Eight of the annexed Washington Grove Hill lots were 1.0 acre (43,560 square feet) and one was 0.91 acres (39,639 square feet). The Robert Voigt property is 1.0 acre, and the Michael Voigt property is 2.29 acres. The RR-4 minimum lot size area of 18,000 square feet was established in 2000, and provides each of these RR-4 annexed 11 properties with the potential to subdivide and create an additional building lot.

All of the annexed Washington Grove Hills lots were 100 feet wide or wider. To accommodate the potential to subdivide, the RR-4 Zone minimum lot width at building line was set at 85 feet to allow a 15-foot wide driveway for a second lot behind, and retention of the existing homes.

Subdivision of the Schank property has been examined to consider construction of an additional home. The current RR-3 standards for minimum lot area and width at building line do not support such a subdivision with retention of the existing home. The existing home (ca. 1880-95) has been identified as a contributing structure to the Washington Grove Historic District. Modifying RR-3 Zone standards can support a subdivision with retention of the existing home.

Reduce RR-3 Zone minimum lot size area to 13,900 square feet, and width at building line to 75 feet – The Ordinance prepared for introduction would reduce the minimum lot size area standard to 13,900 square feet and would match the lot width at building line to the neighboring RR-1 Zone (75 feet). This minimum lot size area was selected to support and limit subdivision of the Schank property to two buildable lots, with retention of the existing home, and to allow for potential measurement uncertainties. (Note: Three lots would require $13,900 \times 3 = 41,700$ which is greater than the area of this property.) These modified standards would allow a straight dividing line between the two lots, parallel to and 76 feet from the western property boundary line. The existing home is 91 feet 3 inches from this boundary line, according to prior building permit records, which will comply with the required 15-foot side setback.

Consistency with the Master Plan – The 2009 Master Plan recommends the re-examination of the Town's ordinances to help assure that further infill, redevelopment, subdivisions, and re-subdivisions are compatible with the character of the Town. This zoning text amendment is consistent with that Master Plan recommendation.

New lot: x feet wide

Lot area: 13,900 sq.ft.

Lot area is sum of:

- area of triangular portion
- plus area of the rectangular portion



Area of triangular portion = base \times height / 2

base = x

height = $(245.97 - 168) x / 200$

base \times height / 2 = $(245.97 - 168) x^2 / 400 = 0.194925 x^2$

Area of rectangular portion = $168 x$

Lot area: $0.194925 x^2 + 168 x = 13,900$ sq.ft.

$0.194925 x^2 + 168 x - 13,900 = 0$

$ax^2 + bx + c = 0$ (“quadratic equation”)

$a = 0.194925$ $b = 168$ $c = -13,900$

$$x = \frac{-b \pm \sqrt{b^2 - 4ac}}{2a}$$

$x = 76.031$ feet = 76 feet 0.4 inches

Michael and Marisel Schank
302 Ridge Rd, #275
Washington Grove, MD 20880

September 9, 2019

Peter Nagrod
Commissioner
Town of Washington Grove Planning Commission
300 Grove Avenue
Washington Grove, MD 20880-0216

Dear Peter Nagrod:

I would like to make a formal request to the Planning Commission to approve the subdivision of our property at 302 Ridge Road.

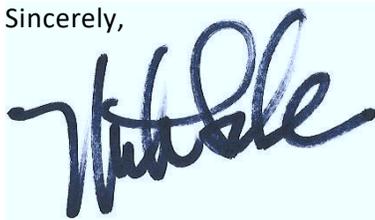
We are concerned that under current zoning ordinances, we would need to split our property into roughly equal lots. This is very difficult with the current house location and setbacks needed under current zoning requirements.

We are asking that you consider Charlie Challstrom's recommendation to make a Zoning Text Amendment (ZTA) that will allow us to split the lot into two parcels without removing any of the current structures. We would agree to sign that we would not seek to further split the property or remove any current structure.

Our request is to take the 76 ft of land closest to the woods, ending with a parcel of nearly 14,000 sq ft, and make this a separate property, leaving a 15 ft setback from the current structure to the proposed property dividing line.

Let us know if you need anything further from us, or if you have any questions.

Sincerely,

A handwritten signature in blue ink on a light blue background. The signature is stylized and appears to read "Mike Schank".

Mike Schank

ZONING TEXT AMENDMENT PROCESS
Excerpts from Article VII – Zoning

1. Apply to Planning Commission.
Applications for amendment must be made to the Planning Commission. (Zoning Section 13.21)
2. Apply in February or August, unless filed by Council or Planning Commission.
Applications may be accepted only during the months of February and August, except that applications made by the Town Council or the Commission must be accepted at any time. (Zoning Section 13.23)
3. Applicant pays \$1,100 filing fee, unless filed by Council or Planning Commission.
Every application for a local map amendment or text amendment, unless filed by the Town Council or the Commission, must be accompanied by a filing fee set by the Town Council. (Zoning Section 13.24) (\$1,100 fee set by Ordinance No. 2005-04)
4. Application specifies amendment proposed.
An application for the amendment of the text of this Article must set forth the new text proposed to be added and the existing text to be deleted. (Zoning Section 13.28)
5. Referral to Historic Preservation Commission.
Upon receipt of any application for an amendment pursuant to this Section 13, the Planning Commission promptly shall forward a complete copy of the same to the Historic Preservation Commission for review and comment. (Zoning Section 13.241) (*Note: HPC comments to Town Council*)
6. Planning Commission accepts application.
No application may be accepted if: (a) Any of the requirements of this Section have not been complied with ...
(d) The required fee as stipulated in Section 13.24 has not been paid. (Zoning Section 13.21)
7. Council sets public hearing date, but only after Commission acceptance and within 30 days after end of the month in which the Commission accepted the application.
Within 30 days following the end of the calendar month in which an application for a local map amendment, sectional map amendment, or text amendment is accepted by the Commission, the Town Council must designate a date on which it will hold a public hearing and must notify the applicant and the Commission. (Zoning Section 13.32)
8. Advertise the public hearing.
Notice of the time and place of the public hearing, together with a summary of the proposed amendment, must be published in at least one newspaper of general circulation in the jurisdiction once each week for two successive weeks. The first notice must be published at least 14 days prior to the date of the hearing. (Zoning Section 13.32)
9. Council conducts public hearing.
Any person has the right to submit oral or written testimony at the hearing and must be accorded all appropriate due process rights. A report of the entire hearing shall be made. ... The Town Council may leave the public record open or reopen the public record for a specified period of time to receive additional written comments. (Zoning Section 13.41)
10. Council adopts and gives notice of ordinance with opinion and decision.
An application for a text or local map amendment must be either: (Zoning Section 13.51)
 - (a) approved or denied on the merits and in conformance with Maryland law;
 - (b) dismissed, if the Town Council finds that any of the procedural requirements of this Section have not been complied with or that the application is frivolous or filed for purposes of harassment;
 - (c) permitted to be withdrawn by the applicant; or
 - (d) approved with such modification and upon such conditions as the Town Council may deem appropriate.
 A decision should be rendered not later than 60 days after the close of the record of the public hearing, unless this time limit is extended by a resolution of the Town Council. (Zoning Section 13.52) The decision of the Town Council must be stated in a written opinion adopted by the Town Council in open session by a majority of those voting on roll call by yeas and nays. The opinion must set forth the conclusions of the Town Council and the reasons therefor. (Zoning Section 13.6) Within 10 days of the enactment of any ordinance by the Council, notice must be given to the qualified voters of the Town and to the public by mailing a summary of such ordinance to each dwelling unit in Town... The ordinance becomes effective on the date set forth in the ordinance, but in no event less than 30 days after its enactment. (Charter Section 15)