1. Board Of Zoning Appeals Agenda - Revised
   Documents:
   _NOV 25, 2019 BZA AGENDA-REV.PDF

2. V2019-36 Frances Ave 134
   Documents:
   V2019-36 FRANCES AVE 134.PDF
NOTE: Applicant and those in favor have a total of 20 minutes to make their presentation to the Board. Applicant may reserve any portion of this time for rebuttal. All those in opposition have a total of 20 minutes to present comments to the Board.

CALL TO ORDER:

MINUTES:

20191015 October 28, 2019 Board of Zoning Appeals Meeting Minutes

Review and Approval of the October 28, 2019 Board of Zoning Appeals Meeting Minutes.

VARIANCES:

20190944 V2019-35 [VARIANCE] KORAY AGIRBAS

TABLED

V2019-35 [VARIANCE] KORAY AGIRBAS is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 1162, District 16, Parcel 1370, 2nd Section, Marietta, Cobb County, Georgia, and being known as 230 North Fairground Street. Variance to reduce the required minimum lot size of 1.46 acres to 1.23 acres to operate automobile sales and other businesses. Ward 1A.

TABLED at the request of the Applicant.
V2019-36 [VARIANCE] MATTHEW & JESSICA MCGEE

V2019-36 [VARIANCE] MATTHEW & JESSICA MCGEE are requesting a variance for property zoned R-3 (Single Family Residential), located in Land Lot 1087, District 16, Parcel 0400, 2nd Section, Marietta, Cobb County, Georgia, and being known as 134 Frances Avenue. Variance to allow an accessory structure closer to the right of way than the principal structure on a corner lot. Ward 4B.

ADJOURNMENT:
STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2019-36
Legistar #: 20190945

Board of Zoning Appeals Hearing: Monday, November 25, 2019 – 6:00 p.m.

Property Owner: Matthew & Jessica McGee
134 Frances Avenue
Marietta, GA 30060

Applicant: Same as owner
Address: 134 Frances Avenue

Land Lot: 1087 District: 16th Parcel: 00400

Council Ward: 4B Existing Zoning: R-3 (Single Family Residential – 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:
1. Variance to allow an accessory structure (pool) closer to the right of way than the principal structure on a corner lot. [§708.03 (F.1.)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:
1. Exceptional or extraordinary circumstances or conditions are not applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.
PICTURES

Side yard view obstructed by landscaping at 134 Frances Avenue

Front yard of subject property
Sideview of proposed location of accessory structure (pool)

Proposed location of accessory structure
Recommended Action:

Approval. The applicants, Matthew & Jessica McGee, are requesting a variance for 134 Frances Avenue to allow an accessory structure – a swimming pool – to be located closer to the right of way than the principal structure. The subject property is a corner lot with frontage along Frances Avenue and Cherokee Street. This property and its adjacent neighbors are zoned R-3 (Single Family Residential – 3 units/acre). In addition, the subject property is part of the Church Cherokee Historic District.

The applicants recently requested a building permit for a pool and were initially notified that both the Historic Preservation Commission (HPC) and Board of Zoning Appeals would need to approve such request. However, after more consideration, it was determined that the proposed in-ground pool would not be visible from the public street via vehicular or pedestrian traffic, and therefore a certificate of appropriateness from the HPC would not be necessary.

The Zoning Ordinance states, “In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.” Accessory structures are also required to be placed at least 10 feet from the side and rear property lines. As is evident from the survey included with this application, the only location on the property that would meet all the setback requirements is an area towards the public right-of-way. The applicant would prefer the pool to be in a more accessible location and is proposing to build the pool within the side yard closest to Cherokee Street. However, although the right of way for Francis Street continues to Cherokee Street, it is a dead-end street and there is no vehicular access to Cherokee Street.

It should be noted that in December 2018, the Board of Zoning Appeals approved a similar request (V2018-54) to allow the owners of 163 Seminole Drive install an in-ground pool in their side yard adjacent to Cherokee Street.

The location of the proposed pool is lower than Frances Avenue and relatively higher than Cherokee Street. Further, mature vegetation and fencing completely obstructs the yard from view of passing pedestrians or motorists. As such, staff recommends approval of this variance request.
APPLICATION FOR VARIANCE OR APPEAL
(Owner/Applicant or Representative must be present at all public hearings)
(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:
Application #: V2019-36  Legistar #: 20190445  BZA Hearing Dt: 11-25-19
City Council Hearing Dt (if applicable) #: —  PZ #: 19-460

This is a variance/appeal application for:

- Board of Zoning Appeals
- City Council

Owner’s Name: Matthew & Jessica McGee

EMAIL Address: jlbmcgee@gmail.com

Mailing Address: 134 Frances Avenue  Zip Code: 30060  Phone Number: 404-433-8111

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: Faye Colbert

EMAIL Address: construction@aquadesignpools.com

Mailing Address: 6905 Alan Thomas Road  Zip Code: 30028  Phone Number: 770-517-1117

Address of subject property: 134 Frances Avenue  Date of Acquisition: ______

Land Lot(s) 1029  District 16th  Parcel 00400  Acreage .639  Zoned 83  Ward 4B  FLU: LP

List the variance(s) or appeal requested (please attach any additional information):

asking for an inground gunite swimming pool and spa to be built in side yard on a corner lot

Required Information
1. Application fee ($250)
2. Completed notarized application. The original application must be submitted with ALL original
signature(s) — Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular
hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in
addition to proposed additions or modifications within the referenced property lines of the tract(s).
   Copies Required: One (1) - (8 1/2" x 11") or (11" x 17") drawn to scale.
   Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that
reasonably may be required in order that an informed decision may be made.

OVER
CAMPAIGN CONTRIBUTIONS
The Owner and Applicant herein certify that he/she □ has ☑ has not made campaign contributions or gifts aggregating $250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

Signature of Owner       Signature of Applicant

MATTHEW W. MCGEE       Kayla Frady
Print Name              Print Name

FINANCIAL INTEREST
The Applicant herein certifies that he/she □ has ☑ has not a financial interest in the property which is ten percent (10%) or more.

Kayla Frady       Signature of Applicant
Print Name                            Date

APPLICATION CERTIFICATION
• The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant’s knowledge and belief. Should any portion not be true, then the application may be rejected.
• Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

Signature of Applicant       10/14/19

Kayla Frady
Print

OWNER CERTIFICATION
• The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners’s knowledge and belief. Should any portion not be true, then the application may be rejected.
• Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
• The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

Signature of Owner       MATTHEW W. MCGEE

Matthew W. McGee
Please Print

134 Frances Ave NE, Marietta, GA 30060

Address

10/07/2019

Date

Signed, sealed and delivered in the presence of:

Jany Tai Weston

My Commission Expires: 9/3/2022

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.
CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, November 25, 2019 at 6:00 P.M.,** City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2019-36 [VARIANCE] MATTHEW & JESSICA MCGEE** are requesting a variance for property zoned R-3 (Single Family Residential), located in Land Lot 1087, District 16, Parcel 0400, 2nd Section, Marietta, Cobb County, Georgia, and being known as 134 Frances Avenue. Variance to allow an accessory structure closer to the right of way than the principal structure on a corner lot. Ward 4B.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

**Accessibility to Meetings:** If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060
Address: 134 FRANCES AVE
Parcel Number: 16108700400
Acreage: 0.639
Ward: 4B
Zoning: R3
FLU: LDR

Property Owner: Matthew & Jessica McGee

Applicant:

BZA Hearing Date: 11/25/2019

Acquisition Date:

Case Number: V2019-36

City of Marietta Planning & Zoning