



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

BOARD OF ZONING APPEALS

Bobby Van Buren, Chairman
David Hunter, Vice Chairman, Ward 4
Vacant, Ward 1
J. K. Lowman, Ward 2
Larry Zenoni, Ward 3
Juanita Carmichael, Ward 5
Tom Samples, Ward 7

Monday, August 31, 2020

6:00 PM

City Hall Council Chambers

Present: Bobby Van Buren, J. K. Lowman, Larry Zenoni, David Hunter, Juanita Carmichael and Tom Samples

Absent:

Staff:

Rusty Roth, Director, Development Services
Shelby Little, Planning & Zoning Manager
Jasmine Thornton, Planning & Zoning Administrator
Gregg Litchfield, City Attorney
Ines Embler, Secretary to the Board

CALL TO ORDER:

Chairman Van Buren called the August 31, 2020 meeting of the Board of Zoning Appeals to order at 6:00 PM.

Chairman Van Buren explained the rules and procedures used in conducting the public hearings.

MINUTES:

20200674 July 27, 2020 Board of Zoning Appeals Meeting Minutes

Review and Approval of the July 27, 2020 Board of Zoning Appeals Meeting Minutes.

Mr. Samples made a motion, seconded by Mrs. Carmichael that the July 27, 2020 Board of Zoning Appeals meeting minutes be approved. The Motion carried 6-0-0. Ward 1 is vacant.

A motion was made by Board member Samples, seconded by Board member Carmichael, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 0

Vote For: 6

VARIANCES:

20200619 V2020-26 [VARIANCE] LEON & BARBARA LEAKE

V2020-26 [VARIANCE] LEON & BARBARA LEAKE are requesting a variance for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1089, District 16, Parcel 0700, 2nd Section, Marietta, Cobb County, Georgia, and being known as 368 Freyer Drive. Variance to reduce the side setback along the eastern property line from 10 feet to 4 feet. Ward 5A.

A public meeting was held.

Mr. & Mrs. Leon and Barbara Leake presented a request for a variance to reduce the side setback along the eastern property line from 10 feet to 4 feet.

There was no opposition to this request.

Chairman Van Buren asked if there was a way to do this without encroaching. Mr. Leake said it would not be possible due to the layout.

The public hearing was closed.

A motion was made by Mrs. Carmichael to approve this application on the basis that exceptional or extraordinary circumstances or conditions are applicable to the development of the site that do not apply generally to sites in the same zoning district. It was seconded by Mr. Lowman. The Motion carried 6-0-0.

Variances approved:

- 1. Variance to reduce the side setback along the eastern property line from 10 feet to 4 feet. [§708.03(H)]*

A motion was made by Board member Carmichael, seconded by Board member Lowman, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 0

Vote For: 6

20200632 V2020-28 [VARIANCE] RACHEL BARRY & PHILIP MYRICK

V2020-28 [VARIANCE] RACHEL BARRY & PHILIP MYRICK are requesting variances for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1147, District 16, Parcel 0170, 2nd Section, Marietta, Cobb County, Georgia, and being known as 126 Stewart Avenue. Variance to reduce the minor side yard setback for a new addition from 10' to 6'; variance to reduce the major side yard setback for a new addition from 25' to 15'; variance to reduce the major side setback for an existing structure (house) from 25' to 4'; variance to reduce the side yard setback for an existing accessory structure (shed) from 10' to 4'; variance to reduce the rear yard setback for an existing accessory structure (shed) from 30' to 8'. Ward 4A.

A public meeting was held.

Ms. Rachel Barry & Mr. Philip Myrick presented a request for a variance to reduce the minor side yard setback for a new addition from 10' to 6'; variance to reduce the major side yard setback for a new addition from 25' to 15'; variance to reduce the major side setback for an existing structure (house) from 25' to 4'; variance to reduce the side yard setback for an existing accessory structure (shed) from 10' to 4'; variance to reduce the rear yard setback for an existing accessory structure (shed) from 30' to 8'.

There were two (2) in opposition to this request. Ms. Kate Tindall and Ms. Sheryl Clements opposed.

Chairman Van Buren asked Ms. Barry if about the encroachment on the other side and asked about the drainage concerns. Ms. Barry explained that once they pick a builder, they will resolve any drainage issues that come up.

Mr. Hunter suggested they use a drain that would take water to the street and Ms. Barry said okay.

Mr. Hunter asked pertaining to variance #1, if they have to go to 6 feet. Ms. Barry said that after the architect tweaked the plans they determined that they only need to go from 10 feet to 8 ½ feet.

Chairman Van Buren asked if the plans are finalized. Ms. Barry said if the variances are approved, yes.

Ms. Tindall said she is not opposed to the addition, just to it being six feet from her property. She feels it will have significant impact on her privacy and wellbeing and therefore would be adversely affected. She would like the setbacks to remain at 10 feet. She also expressed concern over drainage, saying it would flood her and her other neighbor's yards. She requested they install a sump pump that will pump water back into the street.

Ms. Clements opposed siting drainage issues. She said she has had numerous flooding issues from her other neighbors in the past.

Chairman Van Buren asked Ms. Tindall if she heard Ms. Barry state that they only need to go to 8 ½ feet now and if there is a fence there now. Ms. Tindall said yes, she heard and there is a fence. She added that she would like them to add a privacy screen with established 10 foot tall trees.

Mr. Hunter asked who owns the fence. Ms. Barry said they do.

Chairman Van Buren asked Ms. Barry if she has a preference regarding drainage methods.

She said whatever will be the most cost effective.

In her rebuttal, Ms. Barry said that they thought of the neighbors when they did their plans, so the bathroom will be the side closest to the neighbor and that there will only be a very small window there. She said there is already greenery on that side. She feels this will actually provide the neighbors with more privacy.

Mr. Lowman asked if she would consider adding frosted windows to the bathroom window and Ms. Barry affirmed.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application as stipulated and to change variance #1 from 10' to 6' to 10' to 8.5' on the basis that it would 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. It was seconded by Mr. Zenoni. The Motion carried 6-0-0.

Variance approved:

- 1. Variance to reduce the minor side yard setback for a new addition from 10' to 8.5' [§708.04 (H)]*
- 2. Variance to reduce the major side yard setback for a new addition from 25' to 15' [§708.04 (H)]*
- 3. Variance to reduce the major side setback for an existing structure (house) from 25' to 4' [§708.04 (H)]*
- 4. Variance to reduce the minor side yard setback for an existing accessory structure (shed) from 10' to 4' [§708.04 (F.1)]*
- 5. Variance to reduce the rear yard setback for an existing accessory structure (shed) from 30' to 8' [§708.04 (F.1)]*

Stipulations:

- 1. A contractor to be hired to address water drainage from the roof in order to divert it to the street.*

A motion was made by Board member Hunter, seconded by Board member Zenoni, that this matter be Approved as Stipulated. The motion carried by the following vote:

Absent: 0

Vote For: 6

20200635

V2020-29 [VARIANCE] MELISSA K. EARLEY

V2020-29 [VARIANCE] MELISSA K. EARLEY is requesting a variance for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1088, District 16, Parcel 0210, 2nd Section, Marietta, Cobb County, Georgia, and being known as 267 Freyer Drive. Variance to reduce the side setback along the eastern property line from 10 feet to 3 feet. Ward 4B.

A public meeting was held.

Mr. Ben Burney, for the Applicant, presented a request for a variance to reduce the side setback along the eastern property line from 10 feet to 3 feet.

There was no opposition to this request.

There were no questions from the Board members.

The public hearing was closed.

A motion was made by Mr. Hunter to approve this application on the basis that it would 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. It was seconded by Mr. Lowman. The Motion carried 6-0-0.

Variance approved:

- 1. Variance to reduce the side setback along the eastern property line from 10 feet to 3 feet. [§708.03 (H)]*

A motion was made by Board member Hunter, seconded by Board member Lowman, that this matter be Approved and Finalized. The motion carried by the following vote:

Absent: 0

Vote For: 6

20200636

V2020-30 [VARIANCE] 1601 ENTERPRISES, LLC

V2020-30 [VARIANCE] 1601 ENTERPRISES, LLC is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 854, District 16, Parcel 0450, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1601 Canton Road. Variance to allow metal siding on the side of a building facing a roadway. Ward 6B.

A public meeting was held.

Mr. Adam Rozen, Esq., for the Applicant, presented a request for a to allow metal siding on the side of a building facing a roadway.

There was no opposition to this request.

Chairman Van Buren asked about a picture of the carport that was provided and Mr. Rozen responded satisfactorily.

The public hearing was closed.

A motion was made by Chairman Van Buren to approve this application including the letter of stipulations from Adam J. Rozen, PC to Robin Osindele, Planning and Zoning Urban Planner, dated August 27, 2020 on the basis that it would 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. It was seconded by Mr. Samples. The Motion carried 6-0-0.

The variances approved are incorporated in the following letter of stipulations:

- Letter of stipulations from Adam J. Rozen, PC to Robin Osindele, Planning and Zoning Urban Planner, dated August 27, 2020.*

A motion was made by Board member Van Buren, seconded by Board member Samples, that this matter be Approved as Stipulated. The motion carried by the following vote:

Absent: 0

Vote For: 6

ADJOURNMENT:

The August 31, 2020 meeting of the Board of Zoning Appeals was adjourned at 6:44PM

BOBBY VAN BUREN, CHAIRMAN

INES EMBLER, SECRETARY