



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes BOARD OF ZONING APPEALS

James A. Mills, Ward 3, Chairman
J. K. Lowman, Ward 2, Vice Chairman
Brad N. Leskoven, Ward 1
David Hunter, Ward 4
Ronald Clark, Ward 5
Bobby Van Buren, Ward 6
Justice Barber, Ward 7

Monday, August 31, 2015

6:00 PM

City Hall Council Chambers

Present: James Mills, J. K. Lowman, Justice Barber, Brad N. Leskoven, David Hunter, Bobby Van Buren and Ronald Clark

Staff:

Rusty Roth, Development Services Manager
Brian Binzer – Director Development Services
Shelby Winkles Planning Administrator
Jasmine Chatman, Planner
Daniel White, City Attorney
Ines Embler, Secretary to the Board

CALL TO ORDER:

Mr. Mills called the August 31, 2015 meeting of the Board of Zoning Appeals to order at 6:00PM.

MINUTES:

20150743 July 27, 2015 Board of Zoning Appeals Meeting Minutes

Review and Approval of the July 27, 2015 Board of Zoning Appeals Meeting Minutes.

Mr. Lowman made a motion, seconded by Mr. Hunter that the July 27, 2015 Board of Zoning Appeals meeting minutes be approved. The Motion carried 7-0-0.

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

Absent: 0

Vote For: 7

OLD BUSINESS:

20150605 V2015-33 [VARIANCE] AIKG, LLC (RANDY SCHNEIDER)

V2015-33 [VARIANCE] AIKG,LLC (RANDY SCHNEIDER) is requesting revisions to stipulations approved on July 27, 2015 regarding time frame for temporary banner for property located in Land Lot 12100, District 16, Parcel 0750, 2nd Section, Marietta, Cobb County, Georgia and being known as 1255 Roswell Road. Ward 5A.

A public meeting was held.

Mr. Randy Snyder, the applicant, is requesting an extension of thirty (30) days for the removal of the grand opening sign from September 21, 2015 to October 19, 2015 due to delays in construction.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Ms. Barber to grant the extension of the temporary banner from September 21, 2015 to October 19, 2015, on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Lowman. The Motion carried 7-0-0.

A motion was made by Board member Barber, seconded by Board member Lowman, that this Variance be Approved and Finalized. The motion CARRIED by the following vote.

Absent: 0

Vote For: 7

VARIANCES:

20150607 V2015-35 [VARIANCE] MOHAMMAD ALI (H.K.F.S. INC)

V2015-35 [VARIANCE] MOHAMMAD ALI (H.K.F.S. INC) is requesting a variance for property located in Land Lot 12350, District 16, Parcel 1410, 2nd Section, Marietta, Cobb County, Georgia and being known as 749 Roswell Street. Variance to allow the use of auto sales on a lot less than 1 acre. Ward 1A.

A public meeting was held.

Mr. Salmin Ali, representing the applicant, and Mr. Juan Del Rio, Civil Engineer, presented a request for variance to allow the use of auto sales on a lot less than 1 acre in order to proceed with the process of starting a business.

Ms. Barber asked if the dotted areas on the plans presented was proposed landscaping and Mr. Del Rio said that represented impervious areas.

Mr. Van Buren asked if the building was going to stay the same size; and Mr. Del Rio stated that the building would be smaller. They are planning to tear down part of the building in the front area.

Ms. Barber asked if there are fifty (50) parking spaces behind the gate and Mr. Del Rio affirmed.

Mr. Leskoven asked Mr. Del Rio to elaborate on the improvements to the front entrance; and he explained the plans for new sidewalks and landscape.

Ms. Barber asked if they intend to wash vehicles there; and Mr. Del Rio said they will likely have a bay area in the back for a mobile car wash.

Mr. Clark expressed concern over the vehicle transports blocking traffic on Roswell Street; and Mr. Ali said they are amenable to directing vehicle transport deliveries off Washington Avenue.

Ms. Barber asked how many vehicles are normally received on a weekly basis; and Mr. Ali said that there are usually three or four vehicles per week, normally delivered together on one transport.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Leskoven to grant the variance with the stipulation that all delivery vehicles will come from the Washington Avenue entrance to the property, on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Clark. The Motion carried 7-0-0.

A motion was made by Board member Leskoven, seconded by Board member Clark, that this variance be approved as stipulated. The motion CARRIED by the following vote.

Absent: 0

Vote For: 7

20150692

V2015-37 [VARIANCE] CAMDEN CLAYTON

V2015-37 [VARIANCE] CAMDEN CLAYTON is requesting a variance for property located in Land Lot 1013, District 16, Parcel 0480, 2nd Section, Marietta, Cobb County, Georgia and being known as 781 James Street. Variance to allow an attached accessory structure within front setback. Ward 5B.

A public meeting was held.

Mr. Camden Clayton, the applicant, presented a request for variance to allow an attached accessory structure within front setback because he intended to repair the original structure, which ended up being completely replaced; and he was not aware that permits would be required in order to replace the structure.

Ms. Barber asked if the new structure had the same footprint as the previous structure and Mr. Clayton replied that it is wider. The previous one covered half of his paved driveway and the new one covers the entire width of the driveway.

Mr. Mills asked if the setback changed any and Mr. Clayton said that the change was minimal, maybe eight inches and elaborated on the dimensions. He stated that he had signatures from his neighbors confirming that they were not opposed to the structure.

Ms. Barber asked to see the list and he handed it to her.

Mr. Mills inquired about the pictures on file and Mr. Clayton explained about the pictures and how he's made steady improvements to the property in the three years he's been there.

Mr. Clark asked if there was ever a problem getting a permit for this structure. Mr. Clayton explained that he's "from the country" and is used to taking care of things himself. Therefore when he noticed the carport needed repairs, he took care of it himself and didn't realize a permit would be needed. He said that by the time Clyde from Code Enforcement placed a stop order and told him he needed a permit, he was already done with the project. But when he attempted to get a permit, he was told that he could not get a permit until a variance was issued.

Mr. Clark asked for further clarification because of a note in the file that states that Mr. Clayton was asked to get a permit, before the additional structure was built on to the carport. Mr. Clayton stated that no one asked him for a permit before he started building because he actually did all of it himself, there were no contractors involved.

Ms. Barber asked for clarification on some of the signatures in the list of addresses and Mr. Clayton elaborated.

Mr. Clark asked if everyone that signed the petition was fully informed of the situation. Mr. Clayton said he went door to door and explained in detail why the variance sign was in the front yard and that the carport was inside the setback.

There was one (1) person in opposition to this variance.

Ms. Sarah Williams was opposed, saying she was concerned over the structure not having a building permit and felt that Code Enforcement should have stopped the construction as soon as the posts were up two years ago; but that she doesn't have a problem with the actual carport.

Ms. Barber asked for clarification asking if she was frustrated by the rules not being followed, but not troubled by the existing structure; and Ms. Williams affirmed.

The public hearing was closed.

A motion was made by Mr. Clark to deny approval. There was no second.

A motion was made by Mr. Hunter to grant the variance on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Leskoven. The Motion carried 6-1-0. Mr. Clark opposed.

A motion was made by Board member Hunter, seconded by Board member Leskoven, that this variance be approved and finalized. The motion CARRIED

by the following vote.

Absent: 0

Vote For: 6

Vote Against: 1

20150693 V2015-38 [VARIANCE] BOB TERRELL (WIN & ASSOCIATES, LLC)

V2015-38 [VARIANCE] BOB TERRELL (WIN & ASSOCIATES, LLC) is requesting a variance for property located in Land Lot 00670, District 17, Parcel 0450, 2nd Section, Marietta, Cobb County, Georgia and being known as 1119 Powder Springs St. Variance to reduce the required buffer adjacent to a residential district from 40 feet to 10 feet. Ward 2B.

A public meeting was held.

Mr. Bob Terrell, the applicant, presented a request for variance to reduce the required buffer adjacent to a residential district from 40 feet to 10 feet in order to build a new mostly glass front brick building. He stated that the residential houses behind his property are way back in the woods; and they will not be able to see his property because the area is heavily wooded. He had pictures to demonstrate such. He said this variance was approved a couple of years ago, but he was unable to get the leases worked out and the variance expired.

Ms. Barber asked to see the photographs; and Mr. Terrell provided the pictures.

Ms. Barber asked if he was aware of the City's stipulations in the letter he received; and he said he was aware and is not opposed to complying.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Lowman to grant the variance on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Ms. Barber. The Motion carried 7-0-0.

A motion was made by Board member Lowman, seconded by Board member Barber, that this variance be approved and finalized. The motion CARRIED by the following vote.

Absent: 0

Vote For: 7

20150695 V2015-39 [VARIANCE] CHRIS & MARTHA SPENCER

V2015-39 [VARIANCE] CHRIS & MARTHA SPENCER is requesting a variance for property located in Land Lot 1152, District 16, Parcel 0250, 2nd Section, Marietta, Cobb County, Georgia and being known as 340 Anders Path. Variance to increase the allowable building height from 35' to 49'.

Ward 4A.

A public meeting was held.

Mr. Chris Spencer, the applicant, presented a request for Variance to increase the allowable building height from 35' to 49'.

There were no questions asked.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Hunter to grant the variance on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Van Buren. The motion carried 7-0-0.

A motion was made by Board member Hunter, seconded by Board member Van Buren, that this variance be approved and finalized. The motion CARRIED by the following vote.

Absent: 0

Vote For: 7

20150704**V2015-40 [VARIANCE] CARLOTZ, INC (DANIEL KANE)**

V2015-40 [VARIANCE] CARLOTZ, INC (DANIEL KANE) is requesting a variance for property located in Land Lot 05810, District 17, Parcel 0130, 2nd Section, Marietta, Cobb County, Georgia and being known as 1011 Cobb Parkway South. Variance to allow the use of auto sales on a lot less than 1 acre. Ward 1A.

A public meeting was held.

Mr. Mike Bor, the founder of Carlotz and Mr. Daniel Kane, the owner of the property, presented a request for variance to allow the use of auto sales on a lot less than 1 acre in order to open a car consignment store. Mr. Kane is leasing the property to Carlotz because he feels it is the highest and best use for the property.

Mr. Lowman asked if any of Mr. Bor's other properties are as small as this property and Mr. Bor stated that the property in the picture of the presentation is smaller than the property in question.

Mr. Van Buren asked if his business model is to have cars on site; and if so, how many cars does he anticipate having on the lot. Mr. Bor stated that there will probably be around 30-60 cars on the lot at any given time.

Mr. Van Buren noted that the building on the plans provided looked like refurbished aluminum on the front and asked if he was aware that metal front buildings are not allowed in the City without a variance. Mr. Kane explained that the building is not a metal structure, but rather a porcelain type finish consistent with how gas stations were built back in the 50's and 60's; and that they are not replacing that structure, that they are only removing the paint. Mr. Kane stated that there are substantial improvements planned to the property and that all improvements would

be done consistent with the zoning requirements.

Mr. Leskoven asked there have been any incidents with flooding; and Mr. Kane said no and stated that his survey indicates that they are not in a flood zone.

Ms. Barber asked how many cars are at the smaller lot shown in the picture; and Mr. Bor said there are around 55 cars plus 8-10 bikes in a garage.

Mr. Leskoven asked for clarification as to the concept of the business; and Mr. Bor explained the consignment concept of their business.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Leskoven to grant the variance with the stipulation that improvements on the property be similar to the renderings presented, except for the rooftop signage and that the current facade is allowed to remain, on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Ms. Barber. The motion carried 7-0-0.

A motion was made by Board member Leskoven, seconded by Board member Barber, that this variance be approved as stipulated. The motion CARRIED by the following vote.

Absent: 0

Vote For: 7

20150706

V2015-41 [VARIANCE] COBB COUNTY KENNESTONE HOSPITAL AUTHORITY

V2015-41 [VARIANCE] COBB COUNTY KENNESTONE HOSPITAL AUTHORITY is requesting variances for property located in Land Lot 1075, District 16, Parcel 1060, 2nd Section, Marietta, Cobb County, Georgia and being known as 84 Lacy Street. Variance to allow an outdoor play area in the front and side yards. Variance to reduce the eastern side yard setback from 15' to 0' for a covered walkway; variance to reduce the rear yard setback from 35' to 0' for the existing parking deck; variance to increase the floor area ratio from the previously varied 1.12; variance to allow required parking be provided off site; variance to allow construction traffic on Lacy Street. Ward 4B.

A public meeting was held.

Mr. Richard Calhoun, the applicant, presented a request for a variance to allow an outdoor play area in the front and side yards; variance to reduce the eastern side yard setback from 15' to 0' for a covered walkway; variance to reduce the rear yard setback from 35' to 0' for the existing parking deck; variance to increase the floor area ratio from the previously varied 1.12; variance to allow required parking be provided off site; variance to allow construction traffic on Lacy Street for the purpose of relocating the employee daycare center that is currently on Cherry Street.

Ms. Barber asked about the temporary construction access on Lacy Street, and if Whitcher Street would be affected; and Mr. Calhoun explained and said they have no plans to use Whitcher Street.

Ms. Barber asked for the distance from the fence to the sidewalk; and Mr. Steve Ferren, Architect replied that it is five (5) feet from the sidewalk and that there is a required ten (10) foot landscape strip at the front of the property.

There was no opposition to this variance.

The public hearing was closed.

A motion was made by Mr. Hunter to grant the variances with the stipulation that variance 6; construction traffic on Lacy Street, will expire at the completion of the project, on the basis that it would not be detrimental or injurious to the property or the improvements in the vicinity of the development or to the public health, safety or general welfare. It was seconded by Mr. Van Buren. The motion carried 7-0-0.

A motion was made by Board member Hunter, seconded by Board member Van Buren, that this variance be approved as stipulated. The motion CARRIED by the following vote.

Absent: 0

Vote For: 7

ADJOURNMENT:

The August 31, 2015 meeting of the Board of Zoning Appeals was adjourned at 7:26PM.



JAMES (JIM) MILLS, CHAIRMAN



INES EMBLER, SECRETARY