



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2016-57 **Legistar #:** 20161096
Board of Zoning Appeals Hearing: **Monday, November 28, 2016 – 6:00 p.m.**
Property Owner: **Stephanie (Pereira) Rodrigues**
 788 Toliver St NE
 Marietta, GA 30060
Applicant: **Haecio Rodrigues**
 788 Toliver St NE
 Marietta, GA 30060
Address: **788 Toliver Street**
Land Lot: 1164 **District:** 16 **Parcel:** 0330
Council Ward: 5A **Existing Zoning:** R-4 (Single Family Residential – 4 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the required setbacks for an attached accessory structure to be within 2 ft. 10 in. of the side property line. [*§708.04 (F.2)*]

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/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/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/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



788 Toliver Street



Attached accessory structure - carport

Recommended Action:

Approval with stipulations. The applicant, Haecio Rodrigues, on the behalf of the owner – Stephanie Rodrigues is requesting a variance to allow an attached accessory structure (carport) to be within the side setbacks on the property at 788 Toliver Street. The requested variance would allow the carport – that has already been constructed – to be located within 2 feet 10 inches of the side property line. The subject property is 0.193 acres – zoned R-4 (Single Family Residential – 4 units/acre), and is located on Toliver Street – a lightly traveled local road. The adjacent properties and the surrounding neighborhood are zoned R-4 (Single Family Residential – 4 units/acre).

According to the City’s Zoning Ordinance – section 708.04, F.2 states “*When an accessory building is attached to the principle building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.*” The current owner has done extensive interior renovations and wishes to add a carport for vehicular coverage since there is no designated covered area for vehicles during inclement weather. After erecting the structure for the carport, Code Enforcement noticed the work done and notified the owners of their violations – after notification, the owner decided to file for a variance.

The site plan shows the carport on the west side of the subject property, near its side entrance, for easy access to the principal structure. There is a fence that is along the perimeter of the property. Many of the homes along Toliver Street do not have carports or any other type of coverage for their vehicles. Also, the owner stated that the carport should be painted, but due to limited funds they would like to keep it as it is.

There are a number of concerns that are typically expressed when any building is proposed so close to a property line, including run-off from the roof and the ability to maintain the structure without trespassing on the neighbor’s property. Although the need for a carport is understandable, there is also a need to maintain or improve the character of the neighborhood, as well as to manage water runoff to protect neighboring property.

At this time, Staff has not heard back from any neighbors regarding the proposed variance request.

Staff recommends approval of the request with the following stipulations:

- 1. Gutters must be added to the carport to direct the run off away from neighboring property.***
- 2. The carport must be stained or painted.***



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Brian Binzer, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:

Application #: V2016-57 Legistar #: BZA Hearing Dt: 11-28-16
City Council Hearing Dt (if applicable) #: PZ #: 16-581

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name Stephanie (PEREIRA) RODRIGUES

Address 788 TOLIVER ST NE MARIETTA GA Zip Code: 30060

Telephone Number: 321439 2899 Email Address: ABRAAO 85 @ HOTMAIL.COM

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant HAECIO RODRIGUES

Address SAME AS ABOVE Zip Code:

Telephone Number Email Address:

Address of property for which a variance or appeal is requested:

788 TOLIVER ST NE MARIETTA GA 30060 Date of Acquisition: July 31 2013

Land Lot (s) 11640 District 16 Parcel 1164100330 Acreage .19 Zoned R-4 Ward 5A FLU M.D.R. 0330

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

SUN ROOM AND CARPORT

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.
6. Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 25 copies REQUIRED.
7. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

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

Stephanie Rodrigues
Haecio Rodrigues
788 Toliver St.
Marietta GA 30060
321-439-2899

To whom it may concern.

First, we would like to say that we are sorry for our ignorance. We now know of our mistake and we hope not to be committed again. We just hope that the board of zoning would be understanding. To start we have what was an open porch that we made a sun room. We built the room for a place for my baby daughter, my nieces and us to spend time, protected from the weather. The carport was built so we can park the car and protect from the weather, rain or sun. When we have to get in the car and it is raining, it is much easier to go with our baby, and with the carport the car is much cooler and we do not have to wait long time with the car on to cool off the car so we can get in. We have not been able to finish both, since we are having a hardship since we have other problems in our home to fix. The carport needs a paint job and so does the sun room. But since work has been extremely low for us both. It already took much of our savings to get it here, we would like to keep it, please. We also would like time and the opportunity to make it right without having to take it down. Since we got the notice we have been steamily disappointed and emotionally disrupted. Please give us the permission to keep it. I would like to state that due to the narrow lot line and to keep the property looking great, the side of the house is the best place for a carport. It would look terrible in front of the house. I would like to say that our home is very small and we do not have a garage. It could be said that the sun room and the carport does that for us. We are thankful to live in Marietta. Thanks for the opportunity.

Stephanie Rodrigues

Haecio Rodrigues

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: November 11, 2016

**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 28, 2016 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2016-57 [VARIANCE] STEPHANIE PEREIRA RODRIGUES is requesting a variance for property located in Land Lot 1164, District 16, Parcel 0330, 2nd Section, Marietta, Cobb County, Georgia and being known as 788 Toliver Street. Variance to reduce the required setbacks for an attached accessory structure to be within 2 feet 10 inches of the side property line. Ward 5A.

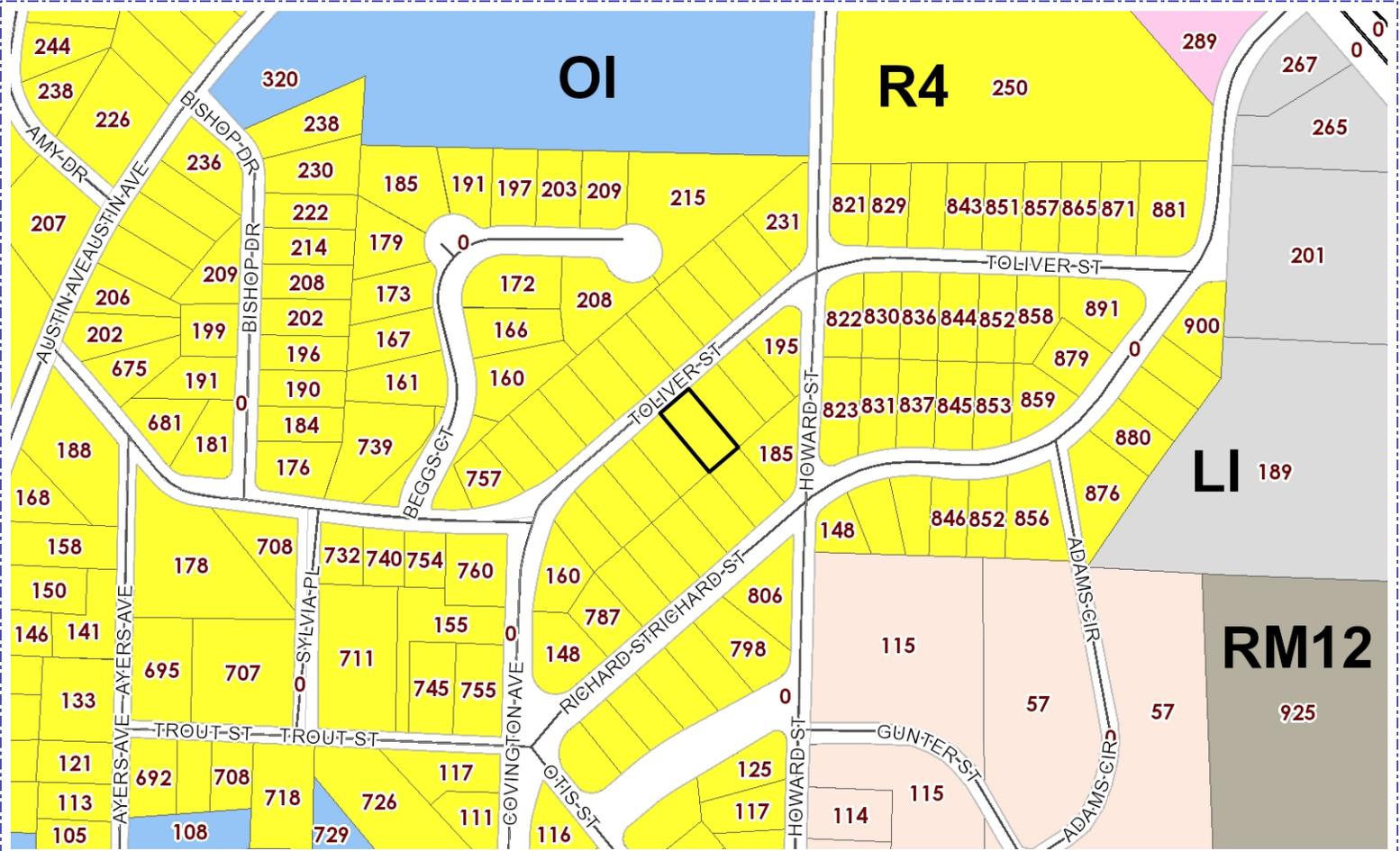
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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 Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
788 TOLIVER ST	16116400330	0.193	5A	R4	MDR

Property Owner:	Stephanie (Pereira) Rodrigues	Zoning Symbols
Applicant:		
BZA Hearing Date:	11/28/2016	
Acquisition Date:		
Case Number:	V2016-57	
City of Marietta Planning & Zoning		

1" to 20'

