



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2013-02 **Legistar #:** 20121309

Board of Zoning Appeals Hearing: Monday, January 28th, 2013

Applicant: Margaret Karen Spears
53 Maple Avenue
Marietta, Georgia 30064

Property Owner: Same as Above

Address: 53 Maple Avenue

Land Lot: 11580 **District:** 16th **Parcel:** 0770

Council Ward: 4 **Existing Zoning:** R4 (Single Family Residential/ 4 Units Acre)

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

1. Variance to reduce the rear yard setback from 10 ft. to 2.3 ft. to construct a 2 car carport. [Section 708.04(F.1.)]
2. Variance to reduce the rear yard setback from 30 ft. to 27.3 ft. for existing principal structure. [Section 708.04(H)]
3. Variance to reduce west side yard setback from 25 ft. to 10.6 ft. for existing principal structure. [Section 708.04(H)]
4. Variance to reduce east side yard setback from 10 ft. to 5 ft. for existing shed. [Section 708.04(H)]

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





Recommended Action:

Recommend partial Denial/Approval. The applicant and owner, Karen Spears, is requesting variances to install a carport located at 53 Maple Avenue. The subject property is 0.207 acres and is zoned R4 (Single Family Residential 4 units/acre). The subject property is located on the corner of Maple Avenue and Locust Street, which is near Kennesaw Avenue. Along Maple Avenue, the majority of the properties along the local street are single family residential dwelling units with historic significance and are zoned R4 (Single Family Residential 4 units/acre). Located directly across Locust Street is the Maple Avenue United Methodist Church, a legally non-conforming use which is also zoned R4 (Single Family Residential 4 units/acre). Along Locust Street the majority of the properties are historically significant single family houses that are zoned R4 (Single Family Residential 4 units/acre). South of the subject property the First Presbyterian Church of Marietta has a parking lot that is zoned LI (Light Industrial).

The applicant is seeking a variance that would allow her to install a 22' X 23' carport that is proposed to be 2.3 ft. from the rear property line. The neighbor located at 234 Locust Street has submitted a letter stating they have reviewed the site plan and architectural plans, and have no objections to the proposed carport. As shown in the pictures above, the subject property's rear property line is the side property line of 234 Locust Street. This property line is identified in the pictures by the three stakes with flags along the property line. There is no wall or fence dividing the abutting properties.

Staff initially identified three other variances necessary to bring the property into compliance, but after further review, it was determined that two of the variances (#2 and #4) would not need to be addressed as they have been previously approved through the administrative process.

- AV-9307 – Approved March 11, 1993 – Variance to reduce rear yard setback from 30 ft. to 26 ft. (for the small addition on the main house).
- AV2010-11 – Approved January 8, 2010 – Variance to reduce side yard setback for accessory structure from 10 ft. to 5 ft. (for a small shed that is currently on the property).

It was determined variance #3, which would reduce the major side setback along Locust Street from 25 ft. to 10.6 ft., would be necessary since the existing house is closer to Locust Street (public/private road) than what the city code permits [Section 708.04(H)].

Locating an area for a carport on this lot is certainly made more difficult by the small lot size, as well as the location of the house and shed currently on the property. However, since the required setback for an unenclosed carport is 5 ft., it appears that the plans could be modified to meet that requirement as there is sufficient area in the rear/side yard to provide a detached carport that could meet zoning requirements. Allowing the proposed structure so close to the property line would do nothing to enhance the public health, safety, or general welfare of the property or the neighborhood, and as such, **staff recommends denial variance #1.** (*Staff recommends approval of variance #3 for the existing house. No action is required for variances #2 & #4.*)