



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes BOARD OF ZONING APPEALS

J. K. Lowman, Ward 2, Chairman
James A. Mills, Ward 3, Vice Chairman
Brad N. Leskoven, Ward 1
David Hunter, Ward 4
Ronald Clark, Ward 5
William "Bill" J. Martin, Ward 6
Justice Barber, Ward 7

Monday, May 19, 2014

6:00 PM

City Hall Council Chambers

Present: William "Bill" J. Martin, J. K. Lowman, Ronald Clark,
Justice Barber, David Hunter, James Mills, and Brad N.
Leskoven

Staff:

Brian Binzer, Development Services Director
Rusty Roth, Development Services Manager
Patsy Bryan, Secretary to the Board
Shelby Little, Urban Planner
Daniel White, City Attorney

CALL TO ORDER:

Chairman Mills called the Monday, May 19, 2014 Board of Zoning Appeals meeting to order at 6:00 p.m.

MINUTES:

20140462

February 24, 2014 Board of Zoning Appeals Meeting Minutes

Review and Approval of the February 24, 2014 Board of Zoning Appeals Meeting Minutes

A motion was made by Board member Martin, seconded by Board member Barber that the Minutes be Approved and Finalized. The motion CARRIED by the following vote: 7 – 0 – 0.

Vote For: 7

VARIANCES:**20140429 V2014-09 Paragon Investors 253 North Forest Avenue**

V2014-09 [VARIANCE] PARAGON INVESTORS request a variance for property located in Land Lot 11600, District 16, Parcel 0360, 2nd Section, Marietta, Cobb County, Georgia and being known as 253 North Forest Avenue. Variance to reduce the required side yard setback for an unenclosed carport from 5 feet to 1½ feet. Ward 3A.

File #20140429 (V2014-09) was presented by Mr. Roth for property located in Land Lot 11600, District 16, Parcel 0360 and being known as 253 North Forest Avenue.

A public hearing was held.

The applicant and builder for Paragon Investors, Grif Chalfant, is requesting a variance to reduce the required side yard setback for an unenclosed carport from 5 feet to 1 ½ feet.

Mrs. Barber confirmed with Mr. Chalfant that there are no water runoff issues.

Mr. Lowman asked Mr. Chalfant if he agreed to adding a stipulation that water runoff from this property be considered to make sure there is no negative impact on adjoining property. Mr. Chalfant neither agreed nor disagreed.

The following individuals spoke in opposition:

Bill Bell, a resident of 261 North Forest Avenue for 50 years, expressed concern regarding the primary electrical supply line running from the street to the rear of the property and the addition being out of character for the neighborhood.

Diane Carter, Vice President of Forest Hills Neighborhood Association and resident for 11 years, requested the following stipulations be applied, if approved:

1. The garage would be no closer than 1.5 feet from the property line of 261 North Forest Avenue; 2. The carport have gutters to redirect rain water away from the property line of 261 North Forest Avenue; 3. A French drain be installed between the concrete pad that is already poured at 253 North Forest and the property line of 261 North Forest Avenue to ensure no bank erosion occurs at 261 North Forest Avenue.

Diane Carter questioned why a variance sign was never placed in front of 258 North Forest Avenue regarding a hearing.

Lisa Hodge, a 32 year resident of 250 North Forest Avenue, complained about flat tires, blocked driveway, and water runoff and erosion.

Leonard Witt, a resident of 247 North Forest Avenue, expressed disappointment about the driveway built in front of the house, erosion and water runoff.

Mr. Chalfant returned for rebuttal to address the concerns of the neighbors.

Chairman Mills questioned Mr. Roth about access to the power pole behind property. Mr. Roth stated that this is typically addressed during the construction and inspection process. Chairman Mills expressed concern about the city being restricted in seeking access to the property to replace the pole.

The public hearing was closed.

Chairman Mills made a motion, seconded by Mr. Lowman, to table this request to the next meeting and for Mr. Roth to discuss with Marietta Power whether or not the carport would create a problem in obtaining access to the pole. Motion carried 7 – 0 – 0.

A motion was made by Chairman Mills, seconded by Board member Lowman that this Variance be Tabled. The motion CARRIED by the following vote: 7 – 0 – 0.

Vote For: 7

20140430

V2014-10 Hamid Nikfarjam 447 Atlanta Street

V2014-10 [VARIANCE] HAMID NIKFARJAM requests a variance for property located in Land Lot 02880, District 17, Parcel 0380, 2nd Section, Marietta, Cobb County, Georgia and being known as 447 Atlanta Street. Variance to increase occupancy from 24 to 42 beds. Ward 1A.

File #20140430 (V2014-10) was presented by Mr. Roth for property located in Land Lot 02880, District 17, Parcel 0380, and being known as 447 Atlanta Street.

A public hearing was held.

The owner, Hamid Nikfarjam, is requesting a variance to increase the occupancy from 24 beds to 42 beds. Mr. Robert Fause, registered architect, represented Mr. Nikfarjam.

Mr. Fause described the uniqueness of the property, price points, number of residents, and additional parking spaces.

Mr. Lowman confirmed that the footprint will not increase.

Mr. Hunter was advised that since the residents do not drive, thus allowing adequate parking for staff and visitors.

Additional comments included adding 6 apartments, no change to the building footprint, serving lower-middle class residents, staff and patient ratio, state requirements to perform semi-annual evacuation procedures and a total of 14 bathrooms.

No one spoke in opposition.

The public hearing was closed.

Mr. Lowman made a motion, seconded by Mr. Clark, to grant this variance as submitted with the criteria being that there will be no negative affect on adjoining properties.

Chairman Mills asked Mr. Lowman if he would be acceptable to a criteria that 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. Mr. Lowman and Mr. Clark both agreed.

The motion failed by a 3 – 4 – 0 vote.

Mr. Martin made a motion, seconded by Mr. Hunter, to deny the variance. The motion to deny carried 4 – 3 – 0.

A motion was made by Board member Martin, seconded by Board member Hunter that this Variance be Denied. The motion CARRIED by the following vote: 4 – 3 – 0

Vote For: 4

Vote Against: 3

20140431

V2014-11 Security Vault Works, Inc. 1000 Whitlock Avenue
V2014-11 [VARIANCE] SECURITY VAULT WORKS, INC. requests a variance for property located in Land Lot 03230, District 20, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia and being known as 1000 Whitlock Avenue. Variance to allow accessory use/structure to be installed

File #20140431 (V2014-11) was presented by Mr. Roth for property located in Land Lot 03230, District 20, Parcel 0030 and being known as 1000 Whitlock Avenue.

A public hearing was held.

The applicant, Security Vault Works, Inc., is requesting a variance to allow an accessory use/structure to be installed in front of the principal building.

Bob Eksom, representing Security Vault Works, is asking to place the drive-up ATM 90' away from the right-of-way of this particular store which will only take up 4 parking spaces.

Mr. Eksom described the lighting to Chairman Mills which will provide more security by being in front of the building instead of the side.

No one spoke in opposition.

The public hearing was closed.

Chairman Mills made a motion, seconded by Mrs. Barber, to approve this variance with the criteria that granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development

A motion was made by Chairman Mills, seconded by Board member Barber that this Variance be Approved and Finalized. The motion CARRIED by the following vote: 7 – 0 – 0.

Vote For: 7

20140432

V2014-12 Paul T. & Anne G. Cundiff 152 Wright Street

V2014-12 [VARIANCE] PAUL T & ANNE G. CUNDIFF request variances for property located in Land Lot 12300, District 16, Parcel 0470, 2nd Section, Marietta, Cobb County, Georgia and being known as 152 Wright Street. Variance to reduce the side setback for a guest home from 20' to 5.' and a variance to reduce the setback between a guest home and the principal structure from 10' to 2.' Ward 4A.

File #20140432 (V2014-12) was presented by Mr. Roth for property located in Land Lot 12300, District 16, Parcel 0470 and being known as 152 Wright Street.

A public hearing was held.

The applicants, Paul T. & Anne G. Cundiff, are requesting a variance to reduce the side setback for a guest home from 20' to 5' and a variance to reduce the setback between a guest home and the principal structure from 10' to 2'.

Tim and Anne Cundiff, residents and owners of 152 Wright Street, stated that their house was built in 1848.

Mr. and Mrs. Cundiff acknowledged receiving letters of opposition from the neighbors and attempted to address their concerns.

Neighbors Dennis & Pat Koutouzis showed support. During the meantime, Nancy Mitchell expressed some concern but phone calls to meet have gone unanswered. The Cundiffs have written support of several other neighbors, including neighbors to the rear of said property.

Mr. Cundiff read an account of various issues such as the proposal for a guest house, necessary variances, and other non-conforming structures in the neighborhood, property line issues, and other neighborhood inconsistencies.

Mr. Lowman clarified with Mr. Cundiff that he is asking for a variance for a setback from 10' to 4' instead of 10' to 2'.

Additional questioning continued.

The following residents spoke in opposition:

Nancy Mitchell is opposed for the following reasons: structure will definitely have a negative impact on her property; too close to her fence; adequate space to build without variances; variance would destroy the preservation and enjoyment of her property; rental of the guest house in the future.

Doug Tasse, resident of 203 Wright Street, expressed concern about the effect on the neighborhood, gravel driveway, personal vehicles parked on street, large bushes in front of house which blocks sidewalk, aesthetics of yard, bringing house up to code if the repairs exceed 50% of home value.

Elizabeth Allen, resident of 175 Wright Street, is concerned about the visual appeal of the house and yard, property values and integrity of other homes and street.

Mr. Cundiff returned for rebuttal to address comments from the neighbors.

Chairman Mills, Mrs. Barber, and Mr. Martin continued discussion about the actual footage necessary to make this project work, outside finish of the addition, and actual location of garage.

Ms. Barber made a motion to table this request until the June meeting, seconded by Mr. Hunter, in order for the owner to work with the Planning Department and the neighbors on an alternative plan. The motion carried 7 – 0 – 0.

A motion was made by Board member Barber, seconded by Board member Hunter that this Variance be Tabled. The motion CARRIED by the following vote: 7 – 0 – 0

Vote For: 7

OTHER BUSINESS:

20140468 Board of Zoning Appeals - Election of Chairman

Election of Chairman to serve from the period from May 2014 to April 2015.

File #20140468 Board of Zoning Appeals Election for Chairman:

Mr. Steve Crane opened the floor for nominations for the position of Chairman for the term of June 2014 through April 2015.

Chairman Mills nominated Mr. Lowman as Chairman. Hearing no other nominations, the nominations were closed.

Chairman Mills made a motion to elect Mr. Lowman, seconded by Mr. Martin 6 – 0 – 1. Mr. Lowman abstained.

A motion was made by Chairman Mills, seconded by Board member Martin that this Motion be Approved and Finalized. The motion CARRIED by the following vote: 6 – 0 – 1.

Vote For: 6

Abstain: 1

20140469 Board of Zoning Appeals - Election of Vice Chairman

Election of Vice Chairman to serve from the period from May 2014 to April 2015.

File #20140469 Board of Zoning Appeals Election for Vice Chairman:

Mr. Steve Crane opened the floor for nominations for the position of Vice Chairman for the term of June 2014 through April 2015.

Mr. Martin nominated Chairman Mills as Vice Chairman. Hearing no other nominations, the nominations were closed.

Mr. Martin made a motion to elect Chairman Mills as Vice Chairman, seconded by Mr. Hunter. The motion carried 6 – 0 – 1. Chairman Mills abstained.

A motion was made by Board member Martin, seconded by Board member Hunter that this Motion be Approved and Finalized. The motion CARRIED by the following vote: 6 – 0 – 1.

Vote For: 6

Abstain: 1

ADJOURNMENT:

The May 19, 2014 Board of Zoning Appeals meeting adjourned at 7:30 p.m.

JAMES A. MILLS, CHAIRMAN

PATSY BRYAN, SECRETARY