



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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2011-39

Legistar #: 20111021

Board of Zoning Appeals Hearing: Monday, November 28, 2011 – 6:00 p.m.

Property Owner: Charles Thomas Blackwell
613 Wilshire Avenue
Marietta, GA 30062-3528

Applicant: Same as above

Address: 613 Wilshire Avenue

Land Lot: 10690 District: 16 Parcel: 0050

Council Ward: 5 Existing Zoning: R-4 (Single Family Residential 4 units/acre)

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

1. Variance to reduce north side setback from 10 ft. to 2.4 ft. (Section 208.04.H.)
2. Variance to reduce south side setback from 10 ft. to 8.1 ft. (Section 208.04.H.)
3. Variance to allow the area of the accessory building's footprint to exceed 50% of the principal structure by allowing 62%. (Section 708.04.F.5)

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





Subject property's north side property line, 3 of the 4 sheds are shown in this picture. 11/04/2011



Subject property's south side property line, 3 sheds are shown in this picture. 11/04/2011

Recommended Action:

The applicant and owner, Charles Thomas Blackwell, is requesting three (3) variances to allow existing multiple sheds to remain in the rear yard of the subject property. The subject property is zoned R4 (Single Family Residential 4 units/ acre) and is identified at 613 Wilshire Avenue. The subject property is located in a residential neighborhood and is surrounded by single family houses that are zoned R4 (Single Family Residential 4 units/ acre).

This variance request is a result of Code Enforcement Division receiving complaints regarding the subject property's numerous sheds along the north and south side property lines. The owner currently has seven (7) sheds located in the rear yard, four (4) are located on the north side property line, and three (3) are located on the south side property line. In the letter submitted by the owner, he explains that the newer sheds are located along the north side property line and that he strategically located them closer to the principal structure due the flooding that occurred in 2009 and the damage that he experienced with the sheds along the south property line. The subject property is completely located in the 100 year floodplain.

The variances that the owner is seeking are to reduce the north side setback from 10 ft. to 2.4 ft; to reduce the south side setback from 10ft. to 8.1 ft.; and to increase the total area of the accessory building's footprint from the maximum allowed 50% to 63%.

According to Public Works Department Staff's review and analysis the following must be performed for the sheds to be in compliance with City Code:

1. Raise each shed approximately 12" + above existing grade with concrete piers to allow flood waters to flow under the sheds.
2. Anchor the sheds to prevent flotation in accordance with the requirements of the Dept of Public Works – Building Inspections Division.

The property owner of the subject property will have to make the recommended changes to the existing accessory structures that are located in the 100 year floodplain to bring the sheds into compliance with the City Code. **If the property owner is willing to make the recommendations listed by the PW Department, Staff recommends approval of variances #1 and #2.**

However, there appears no reason for the property owner to exceed the allowed area for accessory structures; **therefore staff recommends denial of variance #3.**

If the property owner is unwilling to make recommended changes, Staff recommends denial of all the variance requests.