



City of Marietta
Meeting Minutes
BOARD OF ZONING APPEALS

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

James A. Mills, Ward 3, Chairman
Roy L. Shults, Ward 1
J. K. Lowman, Ward 2
G. Marshall Dye, Ward 4
Steven A. Carson, Ward 5
Millard W. Slayton, Ward 6
Neil Bishop, Ward 7

Monday, September 29, 2008

6:00 PM

City Hall Council Chambers

Present: Roy L. Shults, J. K. Lowman, James Mills, Neil Bishop, G. Marshall Dye and Steven A. Carson, Millard W. Slayton

Staff:

Brian Binzer, Development Services Director

Rusty Roth, Development Services Manager

Patsy Bryan, Secretary to the Board

Shelby Little, Urban Planner

Michael Cullen, Urban Planner

Daniel White, City Attorney

CALL TO ORDER:

Chairman Mills called the September 29, 2008 Board of Zoning Appeals Meeting to order at 6:00 p.m.

MINUTES:

20081155 August 25, 2008 Regular Board of Zoning Appeals Meeting Minutes

Review and Approval of August 25, 2008 Board of Zoning Appeals Meeting Minutes

Mr. Dye made a motion to approve the August 25, 2008 Regular Board of Zoning Appeals Meeting Minutes, seconded by Mr. Lowman. Motion carried 6 - 0 - 1. Mr. Shults did not vote as he was not at the August 25, 2008 meeting.

VARIANCES:

20081106 V2008-17 A.M. Engineering/Ahmad Madani, P.E. 1018 Powder Springs Street

V2008-17 AHMAD MADANI, P.E. request variances for property located in Land Lot 00770, 17th District, Parcel 0210, 2nd Section of Cobb County, Marietta, Georgia and being located at 1018 Powder Springs Street. Variance to allow the parking and operating of vehicles on a surface other than concrete, asphalt or brick and variance to reduce the minimum width for interior drives from 20 feet to 15 feet in order to use the existing drive. Ward 2.

File #20081106 (V2008-17) was presented by Mr. Roth for property located at 1018 Powder Springs Street in Land Lot 00770, 17th District, Parcel 0210, 2nd

Section of Cobb County, Marietta, Georgia.

The applicant, Ahmad Madani with A. M. Engineering, is seeking variances to allow the parking and operating of vehicles on a surface other than concrete, asphalt or brick and variance to reduce the minimum width for interior drives from 20 feet to 15 feet in order to use the existing drive.

Mr. Roth pointed out that Paragraph 2 of the original Staff Analysis incorrectly states that Masjid Al-Hedaya was found in violation of several code sections. It should correctly read Masjid Al-Hedaya was charged with those code sections. The court order did not find him in violation all of the code sections. The court order found that the use itself of the property was lawful, preexisting and non-conforming but went on to order them to remove the gravel in the eastern most driveway and to reinstall grass and trees. They also had to remove gravel in the rear of the property and restore the stream buffer area and were given until December 31, 2008 to find another location. The current issue for discussion is that after 60 days past that court date, they had to apply for a variance to continue to use the portion of the driveway on the western portion of the property.

The applicant is being represented by William White.

Mr. White presented the Board of Zoning Appeals members with a copy of the Consent Order labeled Item "A".

Mr. White continued to explain the Consent Order.

Mr. White explained that these variances are creating an undue hardship on his client. Mr. White indicated that the applicant wants to sell the property and move and not spend \$40,000 on a new driveway, move 2 months later, therefore, creating a less marketable piece of property.

The order has been complied with and Mr. White explained that they would like to continue using the gravel parking on site and continue to use the existing driveway.

According to Mr. White these are exceptional circumstances because they are selling the property and granting the application is necessary for the preservation of enjoyment of their property rights and prevent unnecessary hardship. Not granting the application will be detrimental to the applicant.

Mr. White asked the Board grant a variance to use existing driveway and existing gravel parking.

The following people spoke in opposition:

Justin O'Dell, president of Dunleith HOA, is opposed to granting permits and variances to places of assembly who continually and habitually disregard the laws and ordinances of the City of Marietta.

Angie Pfeuffer is a resident of 856 Hickory Drive and adjacent to 1018 Powder Springs Street. Ms. Pfeuffer is President of Hickory Hills HOA and asked that the request be denied because of noise and dust created by driving and parking on gravel.

Pat Wills is a resident of Laurel Springs and Secretary of HOA and also property owner of 1004 Laurel Springs Lane, adjacent to 1018 Powder Springs. Mrs. Wills asked that the request be denied because of noise, lights, disregard for following regulations and silt added to ponds and streams.

Mrs. Wills presented a signed petition by the neighborhood in opposition to this request, marked as Item "B".

Mr. White returned for rebuttal and explained that the Mosque wants to sell the property and move as indicated in the Consent Order and to grant a variance so the applicant does not have to install a driveway and/or parking lot.

Given the fact that the applicant fully intends to sell the property and the Consent Order states December 31, 2008 as the completion date, Mr. Lowman recommended approval of variances with the stipulation that the variances terminate December 31, 2008, seconded by Mr. Bishop. Granting the application will offer unity regarding traffic, lights, and noise, with the property reverting back to residential use next year.

Motion carried by 5-2-0. Mr. Carson and Mr. Dye opposed.

20081107 V2008-18 Meadow Creek, L.L.C. 101 South Marietta Parkway

V2008-18 MEADOW CREEK, L.L.C. request variances for property located in Land Lot 1231, 16th District, Parcel 139, 2nd Section of Cobb County, Marietta, Georgia and being located at 101 South Marietta Parkway. Variance to allow temporary structure to remain as a permanent structure; variance to allow accessory structure in front yard; variance to reduce front yard setback; and variance to reduce side yard setback. Ward 5.

File #20081107 (V2008-28) was presented by Mr. Roth for property located at 101 South Marietta Parkway in Land Lot 1231, 16th District, Parcel 139, 2nd Section, Cobb County, Marietta, Georgia.

The applicant, Meadow Creek, L.L.C. is being represented by Kevin Moore and requesting variances to allow a temporary structure to remain as a permanent structure, to allow an accessory structure in front yard, to reduce the front yard setback and to reduce side yard setback.

Mr. Moore explained that Hoppy's Carwash is owned by Meadow Creek, L.L.C. and opened 13 years ago. These variances pertain to a tent currently used for car detailing.

This is a critical location for the tent so it can be visible from Powder Springs giving customers notice that Hoppy's provides a detailing service. According to Mr. Moore, Hoppy's was allowed by the City to continue with this tent for 13 years.

Mr. Carson made the following motion, seconded by Mr. Dye:

Deny variance #2 to allow accessory structure in front yard;

Deny variance #3 to reduce front yard setback;

Approve variance #1 to allow temporary structure to remain as a permanent structure;

Approve variance #4 to reduce side yard setback.

The rationale to approve is to allow the structure on the side setback to meet all building requirements.

The motion carried 7 - 0.

Mr. Moore confirmed the decision to allow the tent as a permanent structure and allow a reduction of a side setback and not allow the tent to be in the front of the business but can be moved to the rear or side up against setback.

20081108 V2008-19 Johnny Walker 204 McCord Street

V2008-19 JOHNNY WALKER requests variance for property located in Land Lot 1220, 16th District, Parcels 0090 and 0100, 2nd Section of Cobb County, Marietta, Georgia and being located at 204 McCord Street. Variance to reduce the side yard setback from 10 feet to 3 feet. Ward 3.

File #20081108 (V2008-19) was presented by Mr. Roth for property located at 204 McCord Street and being in Land Lot 1220, 16th District, Parcels 0090 and 0100, 2nd Section, Cobb County, Marietta, Georgia.

The applicant, Johnny Walker, is requesting a variance to reduce the side yard setback from 10 feet to 3 feet for the existing structure.

Mr. Walker submitted a plat labeled Exhibit "A".

Mr. Walker is restoring the house by adding to the back and a garage to the front. Currently the house sits 3 feet from the property line.

Mr. Mills made a motion, seconded by Mr. Lowman, to approve this variance with the stipulation that any further additions must abide by all setback requirements. The rationale being that granting the application is necessary for

the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship. Motion carried 7 - 0.

ADJOURNMENT:

The September 29, 2008 Board of Zoning Appeals Meeting adjourned at 6:42 p.m.

JAMES A. MILLS, CHAIRMAN

PATSY BRYAN, SECRETARY