1. Board Of Zoning Appeals Agenda - REVISED
   Documents:
   _MAR 25 2019 BZA AGENDA-REV.PDF

2. V2019-08 Grover St 290
   Documents:
   V2019-08 GROVER ST 290.PDF
NOTE: Applicant and those in favor have a total of 20 minutes to make their presentation to the Board. Applicant may reserve any portion of this time for rebuttal. All those in opposition have a total of 20 minutes to present comments to the Board.

CALL TO ORDER:

MINUTES:

20190220 February 25, 2019 Board of Zoning Appeals Meeting Minutes

Review and Approval of the February 25, 2019 Board of Zoning Appeals Meeting Minutes.

VARIANCES:

20190162 V2019-08 [VARIANCE] SERENA E. SACKS

V2019-08 [VARIANCE] SERENA E. SACKS is requesting a variance for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1287, District 16, Parcel 0350, 2nd Section, Marietta, Cobb County, Georgia, and being known as 290 Grover Street. Variance to allow gravel as an acceptable parking surface. Ward 1A.

OTHER BUSINESS:

20190289 Board Attorney

According to Section 720.09, consideration by the Marietta Board of Zoning Appeals for attorney services provided by Haynie, Litchfield, Crane, & White.

ADJOURNMENT:
STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2019-08  Legistar #: 20190162

Board of Zoning Appeals Hearing: Monday, March 25th, 2019 – 6:00 p.m.

Property Owner: Serena A. Sacks
290 Grover Street
Marietta, Ga 30060

Applicant: Same as above

Address: 290 Grover Street

Land Lot: 1287  District: 16  Parcel: 0350

Council Ward: 1A  Existing Zoning: R-4 (Single Family Residential – 4 units/acre)

Special Exception / Special Use / Variance(s) Requested:
1. Variance to allow gravel as an acceptable parking surface. [§716.08 (B)]

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.
Extended gravel surface at 290 Grover Street

Side of Property along Haley Street
Recommended Action:
Denial. The owner and applicant, Serena Sacks, is requesting a variance for a non-conforming parking surface at the subject property 290 Grover Street. The subject property is zoned R-4 (Single Family Residential – 4 units/acre), is approximately 0.194 acres in size, and is located at the northwestern corner of Grover and Haley Streets. The surrounding properties are also zoned R-4 and used residentially. The applicant is requesting a variance to allow slate gravel as a suitable parking surface after Code Enforcement identified the violation in January 2019.

The owner states that Brock Built removed trees towards the rear of her property and built a large retaining wall for the new homes facing South Avenue. The applicant is claiming that the large retaining wall has created flooding issues on her property leading to soil erosion. This led the owner to build a low, two-tiered retaining wall and extensive underground drainage system, along with water-proofing the exterior, lower part of the structure. The yard was sodded, and a “porous” slate gravel drainage area created on the western side of the driveway on Haley Street. The applicant has stated she had no other choice but to develop a system in order to mitigate any further flooding issues on her property and claiming the retaining wall is detrimental to her property. The owner did not provide any other details regarding the work that has been done on the property and no permits were obtained for the work.

Administrative variances were granted in 2016 when the house was built. These variances reduced the major side yard setback from 25 feet to 12 feet and reduced the minor side yard setback from 10 feet to 8.2 feet (AV 2016-09).
Gravel is not permitted as a suitable parking surface. If the slate is indeed used for drainage reasons, parking cars may increase the probability of compaction and jeopardize its usefulness. Staff also has concerns that the subsurface drainage system and slate gravel extend into the public right of way since the contractor worked without plans or permits. The gravel extends all the way to the back of the curb along Haley Street (40’ right of way) and could potentially spill over into the city’s drainage system. Any gravel or part of the private drainage system within the right of way must be removed. As a result, staff recommends denial of the variance for the use of gravel for parking a surface.

However, denial would not necessitate the complete removal of the slate gravel, since gravel is considered an allowable landscaping surface. A similar case (V2016-35), approved by the Board of Zoning Appeals in July 2016, allowed gravel to remain at 425 Wright Street if the gravel area was roped off (or demarcated by landscape timbers, pavers, and/or landscaping). As a result, staff suggests the following:

- **Removal of the gravel from the right of way (20’ from centerline of Haley Street), and**
- **Installation of low-growing, ornamental shrubs or a low, decorative fence (subject to fence regulations) along Haley Street and down the western edge of the concrete driveway in order to deter parking but minimize potential site distance issues.**
APPLICATION FOR VARIANCE OR APPEAL

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

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2019-08  Legistar #: 20190162  BZA Hearing Dt: 3-25-19
City Council Hearing Dt (if applicable) #: PZ #: 19-04

This is a variance/appeal application for:

X Board of Zoning Appeals

City Council

Owner’s Name: Serena E Sacks

EMAIL Address: SerenaESacks@gmail.com

Mailing Address: 290 Grover St SE  Zip Code: 10080  Phone Number 404-721-9424 or 404-872-9424

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: ____________________________

EMAIL Address: _________________________

Mailing Address: _________________________  Zip Code:  _______________  Phone Number _________________________

Address of subject property: 290 Grover St SE  Date of Acquisition: March 21, 2017

Land Lot(s) 12870  District 16  Parcel 16128700350  Acreage 1/4  Zoned R4  Ward 1A  FLU: MDR

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

Dangerous run off water situation was created by Brock Built wall behind property causing land erosion and interior water damage.

A low 2 step retaining wall was installed to prevent further erosion, dirt was reallocated to replenish what was lost. A porous drainage area was created next to house (Gravel). The exterior of the house was waterproofed. A subterrean drainage system was instalatled.

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.

Optional Additional Plat size: (24”x 36”). If providing (24”x 36”) then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

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
CAMPAIGN CONTRIBUTIONS
The Owner and Applicant herein certify that he/she □ has ☑ has not made campaign contributions or gifts aggregating $250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

Serena E Sacks
Print Name

Signature of Owner

Signature of Applicant

FINANCIAL INTEREST
The Applicant herein certifies that he/she □ has ☑ has not a financial interest in the property which is ten percent (10%) or more.

Serena E Sacks
Print Name

Signature of Applicant

APPLICANT CERTIFICATION
- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant’s knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

Serena E Sacks

Signature of Applicant 2/5/19

Date

OWNER CERTIFICATION
- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners’s knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

Serena E Sacks

Signature of Owner

Please Print

240 Gover St. SE, Marietta, GA 30060

Address

2/5/19

Date

Signed, sealed and delivered in the presence of:

Rebecca Pearson

My Commission Expires: Sep 30, 2023

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

Revised: 6/26/2017
To Whom it May Concern

I purchased my house March 21, 2017. It was new except for the foundation which was from the original house. The one issue was the landscaping, or lack thereof, which became a problem. I did call the city of Marietta and ask if the builder had been required to install sufficient ground covering but was told it had passed inspection so nothing more was required.

Shortly after moving in around June of 2017, I was diagnosed with cancer. Then better part of the next 18 months has been spent in treatment, recovery, and my day-job; Chief Information Officer of Fulton County Schools.

During that time, Brock Built construction tore down the trees behind my house and built a large concrete brick (ugly) retaining wall on the edge of the property line. My understanding is that they paid a fine of $35K because it did not meet code. This resulted in a large drop off and consistent flooding of my property which caused significant soil erosion and water in the crawl space under my house.

Many people recommended that I sue Brock Built to get them to pay damages, put up trees to hide the wall, and pay for fixing the resulting drainage issue on my property. I was too weak, tired, and not up to the fight. Instead, I opted to hire a contractor and fix the problem without seeking restitution. My brother, a former commercial construction contractor, agreed to come in from South Carolina and help me find a contractor and vet their solution.

The contractor redistributed soil to fill in where needed, implemented a low two-tiered retaining wall, constructed an extensive underground drainage system, water proofed the exterior of the lower part of the structure, fixed the water in the crawl space, and finally laid out sod and a porous gravel drainage area next to the house. It cost about $40K. He worked without drawings, so I don’t have any. I’ve included pictures instead.

The wall cost a fortune because it is marine grade timber – my brother recommended this so that it would be attractive and last as long as concrete, 50 years. There is more work to be done to hide the ugly concrete wall, but that will have to wait.

As you can imagine, I am saddened and dismayed to receive notification from the city that fixing a drainage issue which was caused by the construction behind (and above) my house, sanctioned by the city, has put my property in violation. Neither my contractor nor I knew that we were creating a situation that would require the effort and additional cost of requesting a variance. We thought we were in compliance by having the property marked prior to digging for any underground lines.

I love my home and the area of Marietta Square. I’ve literally brought hundreds of friends and family to venues on the square and proudly showed off what we have to offer. It’s a wonderful place to live and I am happy to call it home, despite the hefty tax bill which surprised me.

In closing, I am requesting a zoning variance for the gravel as it is an important component of the water management system on my property. It is neat, with clear lines and fresh stones – aesthetically pleasing. Pictures are attached.

Thank you,

Serena E Sacks
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, March 25, 2019 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2019-08 [VARIANCE] SERENA E. SACKS** is requesting a variance for property zoned R-4 (Single Family Residential – 4 units/acre), located in Land Lot 1287, District 16, Parcel 0350, 2nd Section, Marietta, Cobb County, Georgia, and being known as 290 Grover Street. Variance to allow gravel as an acceptable parking surface. Ward 1A.

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. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

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 Ms. Nicole Curl, ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060
<table>
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<th>Address</th>
<th>Parcel Number</th>
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**Property Owner:**  Serena E. Sacks

**Applicant:**

**BZA Hearing Date:**  03/25/2019

**Acquisition Date:**

**Case Number:**  V2019-08

City of Marietta Planning & Zoning
Current view of gravel, low timber wall.

Current Haley Street view
View from Haley St. with Brock Built concrete wall – notice how high the houses on South Ave are above my house.

The large retaining wall causes huge drainage issues for me.

My stylish timber wall is small compare to the large concrete brick wall behind my property. It will last just as long as it is marine grade timber. The product alone was over $5K, the labor nearly $10K. Rose bushes are planted in the dirt between the two levels of my wall. Hopefully they will bloom in the spring!

The gravel is tasteful and works with the style and color of my home.
Another view of the massive wall. Imagine how much dirt they brought in to fill that space above my home! See pics from before these homes were built for comparison.

My understanding is that Brock Built paid a $35K fine because it violates the Marietta City code – the wall is too close to my property line. My property line starts where the tree on the left sits, just about where the tree on the right is ... very close!

Another Current side view of my home.
Current view of front of house from Grover St. (Warm, modern, clean lines; stylish) I have 2 daughters in college.
Before my house was built, the land behind it was relatively flat. There were trees holding the water and soil in place.

Brock Built stripped out nearly all the trees and put in a huge wall then back filled with a tremendous amount of dirt that caused the drainage an erosion issues on my property.

The picture below shows the house which was torn down for mine to be built, quite an improvement!
2016
Prior to Rebuild

https://www.google.com/maps/place/290+Grover+St,+Marietta,+GA+30060/@33.9454756,-84.5364953,3a,75y,258.14h,90t/data=!3m7!1e1!3m5!1s0DzXXAAN0v_8LF3yV-V-26nQI2eOl6s%2F%2Fgeo3.ggp...
Haley Street (40' R/W)

New Addition

Existing House

Existing Porch

Existing Room

Regrade site from front to back to provide level area for rear addition

Site Plan

Scale 1" = 100'

C-01