1. Board Of Zoning Appeals Agenda - Revised
   Documents:
   
   _JUL 29, 2019 BZA AGENDA-REV.PDF

2. V2019-22 Campbell Hill St 412
   Documents:
   
   V2019-22 CAMPBELL HILL ST 412.PDF

3. V2019-23 SLUP Allgood Rd 574
   Documents:
   
   V2019-23 SLUP ALLGOOD RD 574.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:

20190654 June 24, 2019 Board of Zoning Appeals Meeting Minutes

Review and Approval of the June 24, 2019 Board of Zoning Appeals Meeting Minutes.

VARIANCES:

20190595 V2019-22 [VARIANCE] ISAKSON FAMILY TRUST

V2019-22 [VARIANCE] ISAKSON FAMILY TRUST is requesting a variance for property zoned R-4 (Single Family Residential - 4 units/acre), located in Land Lot 1146, District 16, Parcel 0060, 2nd Section, Marietta, Cobb County, Georgia, and being known as 412 Campbell Hill Street. Variance to increase the allowable building footprint for an accessory structure from 50% to 75% of the primary structure; variance to reduce the northern side yard setback for the existing structure from 10’ to 0.5’. Ward 4B.
V2019-23 [SPECIAL LAND USE PERMIT] FLORESTINA R. BURKE-DAVIS

V2019-23 [SPECIAL LAND USE PERMIT] FLORESTINA R. BURKE-DAVIS is requesting a Special Land Use Permit for a personal care home with 9 residents and 2 staff at property located in Land Lot 1090, District 16, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia and being known as 574 Allgood Road, currently zoned R-3 (Single Family Residential - 3 units/acre). Ward 4B.

APPEAL:

20190705 Appeal of AV2019-11 Lawrence Street 440

Appeal by Cathi Julian of the administrative variance to reduce the side yard setback from 10’ to 7’ for 440 Lawrence Street granted on July 16, 2019.

ADJOURNMENT:
STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2019-22  Legistar #: 20190595

Board of Zoning Appeals Hearing: Monday, July 29th, 2019 – 6:00 p.m.

Property Owner: Isakson Family Trust
f/b/o/ E. Andrew Isakson, Jr.
9755 Dogwood Rd #110
Roswell, Ga 30075

Applicant: E. Andrew Isakson, Sr.
9755 Dogwood Rd #110
Roswell, Ga 30075

Address: 412 Campbell Hill Street

Land Lot: 1146  District: 16  Parcel: 0060

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

Special Exception / Special Use / Variance(s) Requested:
1. Variance to allow the square footage of an accessory structure to exceed that of the principal building. [§708.04 (F.5)]
2. Variance to reduce the northern side yard setback for the existing structure from ten (10) feet to 0.5 feet [§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

Subject property at 412 Campbell Hill Street
Southern side setback at subject property

**Recommended Action:**

**Approval.** The applicant, E. Andrew Isakson, Sr., is requesting variances for the property at 412 Campbell Hill Street, which is zoned R-4, (Single Family Residential – 4 units / acre). The subject property is surrounded by other properties that are also zoned R-4. Mr. Isakson would like to extend the parking area and build an accessory structure to the rear of the subject property. The requested variances would allow the footprint of a new accessory structure to exceed 50% of the principal structure; and would include a reduction in the northern side setback for the existing principal structure. The height of the primary structure and the proposed height of the accessory structure would be approximately the same.

**Detached Garage:**

The proposed accessory structure would consist of a garage, covered carport, bathroom, storage room, and porch. The structure is proposed to be approximately twenty-nine (29) feet in height and located ten (10) feet from the northern and southern side property lines. The accessory structure would not qualify as a guest house since it does not include a bedroom or kitchen area. Additional variances (i.e. setbacks, square footage) would be required if the applicant intended to use the structure as a guest house.
R-4 zoning regulations state that the area of an accessory structure’s footprint cannot exceed 50% of the primary structure’s footprint. The primary structure’s footprint is 2,043 sq. ft.; therefore, the zoning ordinance would allow an accessory structure with a footprint no larger than 1,021.5 sq. ft.

Mr. Isakson is proposing 1,507 sq. ft. of enclosed space within the accessory structure, which is 74% of the primary structure’s footprint. The accessory structure would include a detached garage (1,019 sq. ft.), bathroom (89 sq. ft.), storage room (89 sq. ft.), and an enclosed porch (309 sq. ft.). The area of the covered carport is not included in the accessory structure’s footprint because it is not enclosed.

Variances could be avoided by attaching the garage to the house; however, that design would require the removal of a large oak tree located behind the house. The proposed design allows the oak tree to remain and would only result in the loss of a small dogwood tree.

It should be noted that the subject property and neighboring property share a driveway. Mr. Isakson is hoping that since the new garage will be located further back on the property, traffic conflicts between the two neighbors would be mitigated. The applicant plans on incorporating a new wood fence towards the front of the detached accessory structure; and at that location the zoning ordinance would allow a fence up to 8 feet in height.

Mr. Isakson has taken care to design the proposed accessory structure to meet the required building setbacks, to preserve a large oak tree, and to improve traffic issues related to the driveway that is shared with his neighbor. As such, staff recommends approval of the variance to allow the accessory structure’s footprint to be more than 50% of the primary structure’s footprint, with the following stipulations:

- The accessory structure shall not be converted to or used as a guest home in the future.
- If any work is to be done on automobiles, it must be conducted within the garage, and not on the carport, driveway or parking pad.

Primary Structure:
The existing primary structure is considered non-conforming because the structure encroaches into the minor side setback on the northern side. R-4 requires a side setback of at least ten (10) feet. Although this is an existing condition, the value of the proposed work on the site will likely cause the property to lose its non-conforming status. The structure sits less than a foot from the northern property line and would require a variance to maintain the current setback. According to Mr. Isakson, the accessory structure will not encroach within the setbacks and the only encroachment will come from the existing primary structure. Because this is an existing condition, staff recommends granting approval of the variance for the northern side yard building setback reduction for the primary structure.
STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2019-23       Legistar #: 20190627

Board of Zoning Appeals Hearing: Monday, July 29th, 2019 – 6:00 p.m.

Property Owner: Floristina R. Burke – Davis
574 Allgood Rd
Marietta, GA 30060

Applicant: Same as owner.

Address: 574 Allgood Road

Land Lot: 1090       District: 16       Parcel: 00040

Council Ward: 4B       Existing Zoning: R-3 (Single Family Residential – 3 units/acre)

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

1. Special Land Use Permit for a personal care home with 9 residents and 2 staff. [§712.02 (B.2)]

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 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 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 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

V2019-23 Allgood Rd 574 SLUP.docx

7/11/2019
574 Allgood Road

Proposed location for addition
Recommended Action:
\\underline{Denial.} The property owner, Florestina R. Burke-Davis, is requesting a Special Land Use Permit (SLUP) to provide a group home for more than three (3) residents at 574 Allgood Road. The subject property is approximately 1.46 acres and is zoned R-3 (Single Family Residential – 3 units/acre). The adjacent properties to the south and west across Allgood Road are zoned R-3. The adjacent properties to the north and east are zoned OI (Office Institutional) and contain power transmission lines. The applicant is requesting to be allowed to house nine (9) residents and two (2) staff members. Mrs. Burke-Davis’ group home currently operates with four (4) residents and one (1) staff member. The addition of residents and staff would include a one-story addition to the existing structure, along the southern property line.

In June 2016, the Board of Zoning Appeals denied a request (V2016-27) by Mrs. Burke-Davis to increase the number of residents from four (4) to nine (9). At the time, group homes allowed up to six (6) residents, including resident staff, without a SLUP. However, in June 2016, City Council amended the regulations to limit the number of residents in group homes to three (3), excluding resident staff, prior to obtaining a SLUP. The approved change to the regulations was indicative of City Council’s intent that there should not be substantially more people living in group homes than those living in single-family homes.

In April 2019, Mrs. Burke-Davis submitted a building permit application for an addition to the home that was denied by staff based on the previous denial of the special land use permit. The proposed addition included three additional bedrooms, one additional bathroom, and a new sitting area and deck to the rear.

If this request is approved, the expansion could require life safety improvements by the Fire Department and could also result in a change to the following building requirements:

- An increase in occupancy load above 5 will put this existing PCH (5 or less) in a new occupancy classification, R-4, per 2012 IBC.
- Construction requirements will include, but are not limited to, 1-hr. rated fire partitions between units, hard wired and interconnected smoke detectors, and increased rated corridor width.

Mrs. Burke-Davis has stated that she operates the business with her husband and often receives calls from agencies and family members inquiring about availability. She stated that, as an experienced registered nurse, the reason her home is appealing to others is due to affordability, closer supervision, and more personal care.

The purpose of the City’s regulations is to make community residences more compatible with the surrounding community and to help to maintain viable neighborhoods. The subject property is within a neighborhood of other single-family homes; therefore, to allow an increase in residents and staff would not be compatible with the City’s intended purpose for residential neighborhoods.

The applicant currently operates a viable business on the property and has not provided any justifiable hardship to substantiate the need to expand. As such, \textit{Staff recommends denial of this variance request.}
APPLICATION FOR SPECIAL LAND USE PERMIT
(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:
Application#: 2019-23 Legistar#: 20190627 PZ#:
PC Hearing: ____________ CC Hearing: ____________ BZA Hearing: 7/29/19

☐ Planning Commission/City Council  ☒ Board of Zoning Appeals

Owner's Name: FLORISTINA R. BURKE - DAVIS
Address: 574 ALLGOOD RD, MARIETTA, GA  Zip Code: 30060
Telephone Number: 246 346 9795 Email Address: FRBURKEDAVIS@AOL.COM

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:
Address: ____________________________________________ Zip Code: ______________________
Telephone Number: __________________________ Email Address: ____________________________

Address of property for which special land use is requested:
574 ALLGOOD RD Date of Acquisition: 11-09-2011


List the special land use permit requested (please attach any additional information):
SPECIAL LAND USE PERMIT TO ALLOW PERSONAL CARE HOME TO EXPAND FROM 4 RESIDENTS + 2 STAFF TO 9 RESIDENTS + 2 STAFF

Required Information
1. Application fee: Board of Zoning Appeals ($250) or Planning Commission/City Council ($500)
2. Completed notarized application. The original application must be submitted with ALL original signatures – Copies of the application or signature(s) will NOT be accepted.
3. Legal description of property. Legal description must be in a WORD DOCUMENT.
4. Site plan: One copy scaled to an 8 1/2” X 11” size. If larger than 11” x 17”, will need 25 copies. Site plan must be drawn to scale prepared by an architect, engineer, (P.E. or Civil Engineer), whose state registration is current and valid.
5. 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
06-06-2019

From: Floristina Burke-Davis  
4269 Chastain Pointe NW  
Kennesaw, GA 30144

To: The Department of Development Services  
205 Lawrence Street  
Marietta, GA 30060

Re: Variance Request

To the Attention of the Marietta Board of Zoning:

I am writing this letter as a request for a special land use permit to expand the property located on 574 Allgood Road in Marietta. My husband and I own this property and run a small personal care home with a current census of four residents and one staff. I often receive inquiries from both agencies and family members looking for a personal care home for their loved ones. As a registered nurse with over thirty years of Long Term Care experience, I know that some of the reasons why these community services have become increasingly appealing to families is because of their affordability, closer supervision, and personal care.

I respectfully ask this Board to grant us the opportunity to expand our property. I would like to increase the bed availability from four residents and one staff to nine residents and two staff. Such expansion would be beneficial to the community because it will create jobs in addition to providing housing for more residents. According to Marietta city code it would be difficult to expand without getting this special permit. An approval from the Board would give us the opportunity to continue to serve the Marietta community even more effectively.

Thank you for your consideration.

Sincerely,

Floristina Burke-Davis.
TO: Marietta Daily Journal  
FROM: City of Marietta  
RUN DATE: July 12, 2019  

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, July 29, 2019 at 6:00 P.M., City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2019-23 [SPECIAL LAND USE PERMIT] FLORESTINA R. BURKE-DAVIS is requesting a Special Land Use Permit for a personal care home with 9 residents and 2 staff at property located in Land Lot 1090, District 16, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia and being known as 574 Allgood Road, currently zoned R-3 (Single Family Residential – 3 units/acre). Ward 4B.

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
### Special Land Use Permit

<table>
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<th>Address</th>
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**Property Owner:** Floristina R. Burke-Davis

**Applicant:** Floristina R. Burke-Davis

**BZA Hearing Date:** 07/29/2019

**Acquisition Date:**

**Case Number:** V2019-23

City of Marietta Planning & Zoning
PICTURES

574 Allgood Road

Proposed area for addition