



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes

### BOARD OF ZONING APPEALS

*Bobby Van Buren, Chairman*  
*David Hunter, Vice Chairman, Ward 4*  
*Craig Smith, Ward 1*  
*J. K. Lowman, Ward 2*  
*Larry Zenoni, Ward 3*  
*Juanita Carmichael, Ward 5*  
*Tom Samples, Ward 7*

Monday, January 25, 2021

6:00 PM

City Hall Council Chambers

*Present: Bobby Van Buren, David Hunter, Craig Smith, J. K. Lowman, Larry Zenoni and Juanita Carmichael*

*Absent: Tom Samples*

*Staff:*

*Rusty Roth, Director, Development Services*  
*Shelby Little, Planning & Zoning Manager*  
*Jasmine Thornton, Planning & Zoning Administrator*  
*Gregg Litchfield, City Attorney*  
*Ines Embler, Secretary to the Board*

### CALL TO ORDER:

*Chairman Van Buren called the January 25, 2021 meeting of the Board of Zoning Appeals to order at 6:57PM.*

*Chairman Van Buren explained the rules and procedures used in conducting the public hearings.*

### MINUTES:

**20210041**

#### **November 30, 2020 Board of Zoning Appeals Meeting Minutes**

#### **Review and Approval of the November 30, 2020 Board of Zoning Appeals Meeting Minutes.**

*Mr. Lowman made a motion, seconded by Mrs. Carmichael that the November 30, 2020 Board of Zoning Appeals meeting minutes be approved. The Motion carried 6-0-0. Mr. Samples was absent.*

**A motion was made by Board member Lowman, seconded by Board member Carmichael, that this matter be Approved and Finalized. The motion carried by the following vote:**

Absent: 1

Vote For: 6

## VARIANCES:

20210011

V2021-01 [VARIANCE] JACOUB SBAITI (MARK NELKIN)

**V2021-01 [VARIANCE] JACOUB SBAITI (MARK NELKIN) are requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 1170, District 16, Parcel 0030, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1765 Roswell Road. Variance to reduce the minimum lot size required for automobile sales from one acre to 0.86 acres. Ward 5A.**

*A public meeting was held.*

*Mr. Jacoub Sbaiti presented a variance request to reduce the minimum lot size required for automobile sales from one acre to 0.86 acres.*

*There was no opposition to this request.*

*Chairman Van Buren asked what number of cars typically load and unload. Mr. Sbaiti said that most of the time they drive their own cars from the auction and that delivered vehicles come in two car carriers, which will easily fit in a turn lane. He said sometimes they also use a flatbed for one vehicle. They typically get one delivery per week.*

*Chairman Van Buren asked if they do any mechanical work on site. Mr. Sbaiti said no, zero.*

*Mr. Lowman said that in the letter of support, it mentions five job positions and several million dollars in an increase in revenue and asked if those job positions are over and above what he currently has in the current location. Mr. Sbaiti said that they currently are three operating the business. He plans to add two more positions.*

*Chairman Van Buren asked if this new location is bigger than his current facility. Mr. Sbaiti said yes and stated that it is bigger and nicer than his current location. He said his current facility is 10,200 square feet and the new one is 13,000 square feet.*

*Chairman Van Buren said that if they currently operate at a 10,000 square foot showroom with one delivery per week will they need more cars and deliveries with this new 13,000 square foot facility in order to fill that space? Mr. Sbaiti said not necessarily. He said they deal in specialty cars. He said they will have maybe 10% more cars, not more than that. If they could afford more inventory, they would be looking at a different location to move into. This is the most they can afford at this time. He said this location cannot hold 100 cars like big dealers could.*

*Mrs. Carmichael asked how many cars are on the lot at any given time. Mr. Sbaiti said 65 cars total.*

*Mrs. Carmichael asked if she purchased a car from them, would they deliver it to her house? Mr. Sbaiti said no. They do not do deliveries. The deliveries are from the auction or sometimes CarMax to their showroom.*

*Mrs. Carmichael asked for affirmation that they are not staying at the Franklin Gateway location and only having one location. Mr. Sbaiti affirmed and said they are leaving the Franklin Gateway location; the landlord is converting the space into offices.*

Chairman Van Buren asked if the variance is not approved, where would they go? Mr. Sbaiti said they do not know. He said they have been in business for 18 years with zero complaints from customers or auction houses and have big hopes for this location.

Mrs. Carmichael asked how long have they been at the Franklin Gateway location. Mr. Sbaiti said three years, one month.

Mrs. Carmichael asked where were they before Franklin Gateway? Mr. Sbaiti said they were in Henry County as a wholesaler and moved into retail when they went to the Franklin Gateway location.

Mr. Zenoni asked if he is aware of the stipulations recommended by the City and if he was agreeable to them. Mr. Sbaiti affirmed.

The public hearing was closed.

A motion was made by Mrs. Carmichael to approve this application as stipulated on the basis 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. It was seconded by Mr. Zenoni. The Motion carried 6-0-0.

Variance approved:

1. Variance to reduce the minimum lot size required for automobile sales from one acre to 0.86 acres. [§708.16 (B.6.A)]

Stipulations:

1. The subject property shall be limited to only one (1) active used car dealership.
2. The use shall not be reestablished after discontinuance for a continuous period of 6 months.
3. All vehicles will be stored on an approvable surface (concrete, brick, or asphalt).
4. No inventory be established within the forty (40) foot buffer adjacent to the apartment complex.
5. No inventory be established within the forty (40) foot front yard setback, with the exception of the currently paved parking area.

**A motion was made by Board member Carmichael, seconded by Board member Zenoni, that this matter be Approved as Stipulated. The motion carried by the following vote:**

**Absent: 1**

**Vote For: 6**

**20210013**

**V2021-03 [VARIANCE] ROOSTER 580 LLC**

**V2021-03 [VARIANCE] ROOSTER 580 LLC is requesting variances for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 1088, District 16, Parcel 0910, 2nd Section, Marietta, Cobb County, Georgia, and being known as 580 Chicasaw Drive. Variance to reduce the rear yard setback from 30 feet to 15 feet; variance to allow the existing driveway to expand its gravel footprint; variance for the existing metal shed in the southeastern corner to remain 0' from the side and rear property lines. Ward 4B.**

*A public meeting was held.*

*Ms. Barbara Goldstein presented a variance request to reduce the rear yard setback from 30 feet to 15 feet; variance to allow the existing driveway to expand its gravel footprint; variance for the existing metal shed in the southeastern corner to remain 0' from the side and rear property lines.*

*There was no opposition to this request.*

*There were no questions from the Board Members.*

*The public hearing was closed.*

*A motion was made by Mr. Hunter to approve this application on the basis that it would 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. It was seconded by Mrs. Carmichael. The Motion carried 6-0-0.*

*Variations approved:*

- 1. Variance to reduce the rear yard setback from 30 feet to 15 feet. [§708.03 (H)]*
- 2. Variance to allow the existing driveway to expand its gravel footprint. [§716.08 (B)]*
- 3. Variance to allow the existing shed in the southeastern corner to be located 0' from the side and rear property lines. [§708.03 (F.1)]*

**A motion was made by Board member Hunter, seconded by Board member Carmichael, that this matter be Approved and Finalized. The motion carried by the following vote:**

**Absent: 1**

**Vote For: 6**

**20210015**

**V2021-05 [VARIANCE] MAXWELL-REDDICK & ASSOCIATES INC (ZMW LLLP)**

**V2021-05 [VARIANCE] MAXWELL-REDDICK & ASSOCIATES INC (ZMW LLLP) are requesting a variance for property zoned LI (Light Industrial), located in Land Lot 362, District 17, Parcel 0110, 2nd Section, Marietta, Cobb County, Georgia, and being known as 590 Commerce Park Drive. Variance to allow an accessory structure/use to be installed in front of the principal building. Ward 1A.**

*A public meeting was held.*

*Mr. David Blumenthal presented a variance request to allow an accessory structure/use to be installed in front of the principal building.*

*There was no opposition to this request.*

*Chairman Van Buren asked if he was aware of the stipulations the City was recommending. Mr. Blumenthal affirmed.*

*Chairman Van Buren asked if he had any issues with replacing those trees. Mr. Blumenthal asked for clarification whether it was just replacing the number of trees that were cut down or is it doing the frontage to comply with code? Ms. Little explained that tree replacement would be required in the three islands. She said the tree removal is separate issue. Mr. Blumenthal said they have no issue with density replacement in the islands. He's just trying to figure out what the scope is because there is a lot of frontage in this property and they are impacting a fairly small portion of it.*

Mr. Lowman asked Staff if the City expects a one for one replacement as far as the trees are concerned. Ms. Little said that the trees that were removed were on the right of way. She is not sure who removed them. It would be a Code Enforcement case and it would be determined at that time once they figure out how many trees were removed and who removed them. Chairman Van Buren asked if they would work with Code Enforcement to figure that out and Ms. Little affirmed saying it is somewhat unrelated to this.

Chairman Van Buren asked Mr. Blumenthal if he is agreeable to resolve the tree issue through Code Enforcement. Mr. Blumenthal said he figured that this would be something that would come up through permitting one way or the other.

The public hearing was closed.

A motion was made by Mr. Smith to approve this application as stipulated on the basis that exceptional or extraordinary circumstances or conditions are applicable to the development of the site that do not apply generally to sites in the same zoning district. It was seconded by Mrs. Carmichael. The Motion carried 6-0-0.

Variances approved:

1. Variance to allow an accessory structure/use to be installed in front of the principal building [§708.26 (F.1)]

Stipulations:

1. Tree replacement will be required according to disturbed area with a minimum of one 3" caliper tree to be planted in each of the tree islands adjacent to the new ATM.
2. Street trees that had been in place along Commerce Park Drive, but which that have been removed in the past year, must be replaced as required by the Tree Ordinance.

**A motion was made by Board member Smith, seconded by Board member Carmichael, that this matter be Approved and Finalized. The motion carried by the following vote:**

**Absent:** 1

**Vote For:** 6

**20210031**

**V2021-06 [VARIANCE] ANNA REYNOLDS PAYNE**

**V2021-06 [VARIANCE] ANNA REYNOLDS PAYNE is requesting a variance for property zoned R-3 (Single Family Residential - 3 units/acre), located in Land Lot 72, District 17, Parcel 0500, 2nd Section, Marietta, Cobb County, Georgia, and being known as 404 Merrydale Drive. Variance to allow the finished side of the fence be to the interior. Ward 2A.**

*A public meeting was held.*

*Mr. & Mrs. Andy and Anna Payne presented a variance request to allow the finished side of the fence be to the interior.*

*There was no opposition to this request.*

*Mr. Hunter stated that they could finish the sides with the finish boards. Mr. Payne said the neighbors already have chain link fences along there so it would not be possible unless they go through the chain link fences.*

*Mr. Zenoni asked how they ended up coming before Code Enforcement. Mr. Payne said that Clyde, Code Enforcement Officer, told them it was a random drive-by.*

*Mr. Lowman said this was obviously awkward because these people have sunk the money into the fence. The fence company knew better and went ahead and suggested the wrong way.*

*The public hearing was closed.*

*A motion was made by Mr. Lowman to approve this application on the basis that exceptional or extraordinary circumstances or conditions are applicable to the development of the site that do not apply generally to sites in the same zoning district. It was seconded by Mrs. Carmichael. The Motion carried 6-0-0.*

*Variations approved:*

- 1. Variance to allow the finished side of the fence be to the interior. [§710.04 (A.)]*

**A motion was made by Board member Lowman, seconded by Board member Carmichael, that this matter be Approved and Finalized. The motion carried by the following vote:**

**Absent: 1**

**Vote For: 6**

**ADJOURNMENT:**

*The January 25, 2021 meeting of the Board of Zoning Appeals was adjourned at 6:37PM*

---

**BOBBY VAN BUREN, CHAIRMAN**

---

**INES EMBLER, SECRETARY**